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NATIONALIST REACTIONS
OF THE ROMANIAN STATE TO THE CLAIMS
OF THE HUNGARIAN MINORITY¹

Abstract: The paper discusses the visible nationalist reactions of the Romanian authorities given to the demands of the Hungarian minority community in Romania. These reactions are reflected in certain judicial and administrative decisions, therefore the paper focuses on analyzing those instances. First the paper approaches the issue of the Romanian nation-state from a general perspective, then it proceeds with presenting the attitude of the Romanian authorities towards some political issues of Hungarian interest (territorial autonomy, minority symbols, use of the Hungarian language), revealing also the leading motifs of the Romanian nationalist discourse.

The tumultuous relationship between the Romanian state and the Hungarian minority has a history of almost one hundred years. Following the Treaty of Trianon, when the region of Transylvania was annexed to Romania with a 25% Hungarian population of around 1.3 million people,² the ideology of a solid Romanian nation-state was announced and efforts were made in order to bring it about based on the French national model. Instead of keeping the promises of the Romanian National Assembly as stated in the Resolution of Alba Iulia on 1st December 1918³ (currently the national day of Romania) and fulfilling the commitments made in the treaty for minorities of 1919,⁴ the Romanian elites focused on creating a homogeneous Romania. The success of

1 This paper is the shortened form of the paper published in *Magyar Kisebbség* 2016/3-4 under the title “Államnacionalizmus és kisebbségi nacionalizmus Romániában. A román állam és a magyar kisebbség szembenállása” [State and minority nationalism in Romania. The conflict of the Romanian state and the Hungarian minority]. The translation was prepared in cooperation with Emese Koszta.

2 According to the census data from 1920. See: Árpád Varga E., “Az erdélyi magyarság főbb statisztikai adatai az 1910 utáni népszámlálások tükrében” [The main statistical data about Hungarians of Transylvania according to census data following 1910], in *Magyarságkutatás*, ed. Juhász Gyula (Budapest: Magyarságkutatás Intézet, 1988) <http://www.kia.hu/konyvtar/erdely/erdmagy.htm>, accessed 17 August, 2017.

3 Read more: “The Resolution Of The National Assembly In Alba-Iulia On The 18th Of November / The 1st Of December”, Bucharest, State Archives, Directing Council Funds, file 76/1918, f.3, copy, http://www.cimec.ro/istorie/unire/rezo_eng.htm, accessed 17 August, 2017.

4 Full title of the document: Treaty between the Principal Allied and Associated Powers and Romania [Romanian Minorities Treaty] signed in Paris on 9 December 1919.

assimilationist politics is shown by the decrease from approx. 25% to 10% in the proportion of ethnic minorities in Romania, during the last 100 years.⁵

The process was only interrupted for a short time by World War II, when Northern Transylvania was returned to Hungary through the Second Vienna Award of 1940. However, the Paris Peace Treaty in 1947 marking the end of World War II re-established the former borders traced by the Treaty of Trianon and a new system emerged: communism. The regime followed a flawed policy: the permissiveness and tolerance of the first years⁶ was soon replaced by the well-known assimilationist politics pursued during the Ceaușescu-dictatorship: the Hungarian Bolyai University was merged with the Romanian Babeș University; the Hungarian Autonomous Region was dissolved⁷; the country was divided into ethnically mixed counties; the ethnic ratio of the cities was changed by forced industrialization combined with a great influx of ethnic Romanians coming from rural areas and from outside the historical region of Transylvania, from beyond the Carpathian mountains.

The only hope for ethnic Hungarians in Romania were the changes brought about in 1989. Although the regime changed and became apparently more democratic, as borders opened up and representation of the interests of Hungarians was made possible, associations and foundations were established one after another. However, the politics of the 1990's was still poisoned by chauvinist rhetoric, with the spokesmen of the Greater Romania Party (Partidul România Mare – PRM) at the front. It wasn't until 1996 that some progress was made, when the Democratic Alliance of Hungarians in Romania (Romániai Magyar Demokrata Szövetség – RMDSZ)⁸ became a member of the governing coalition, and the Romanian-Hungarian Bilateral Agreement was signed. Moreover, also a precondition for joining the EU was the entering into effect and ratification of a series of acts promoting minority rights, such as for example the Council of Europe's Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

5 According to 2011 census data provided by the Romanian National Institute of Statistics. See “Sheet 11: Stable population by mother tongue and ethnicity”, http://www.recensamantromania.ro/wp-content/uploads/2013/07/sR_TAB_11.xls, accessed 17 August 17, 2017.

6 For example, the Statutory Law for Nationalities was adopted; the Bolyai University, a state university teaching in Hungarian was fully functional, hundreds of new theatres and media providers were opened; the Hungarian Autonomous Region was established.

7 See Stefano Bottoni, *Sztálin a székelyeknél. A Magyar Autonóm Tartomány története (1952–1960)* [Stalin at the Székelys. History of the Hungarian Autonomous Province 1952-1960] (Csíkszereda: Pro-Print Könyvkiadó, 2008).

8 The Democratic Alliance of Hungarians in Romania (in Hungarian: Romániai Magyar Demokrata Szövetség – RMDSZ) was established right after the Romanian anti-communist revolution to represent the interests of the Hungarian community in Romania. It has successfully participated at all the local, parliamentary and EP elections since its establishment, and managed to stay active in the Romanian political scene.

Consequently, in the early 2000's – thanks to a set of domestic regulations and institutions established – the situation of minorities visibly improved. However, following Romania's accession to the EU in 2007, this trend dwindled. Without serious international pressure and control mechanisms, the political will in Bucharest also subsided and no further legal and institutional improvements were made voluntarily. The fact that the statutory law on national minorities has been lingering in the draft phase for over a decade confirms precisely this.

Probably as a result of intensifying Hungarian political demands and also due to the permissiveness of the international and European political environment (lack of sanctions from the European Union, Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe), there is a visible nationalist reaction in the Romanian public sphere, also reflected in certain judicial and administrative decisions, which will be discussed in the analytical part of the paper. First I will approach the issue of the Romanian nation-state from a general perspective, then I will proceed with presenting the attitude of the Romanian authorities towards some political issues of Hungarian interest (territorial autonomy, minority symbols, use of the Hungarian language), revealing also the leading motifs of the Romanian nationalist discourse, and I will try to answer the following question: *What can we conclude from these positions of the Romanian authorities and courts and what is their significance?* My research is based mainly on the cited bibliography, while the subject matter of my analyses are the judicial and administrative decisions in Romania. In this study, I have addressed the issues from a rather descriptive and analytic perspective, but also including some normative remarks, mainly building on the analyses of the nationalism and minority theories of Rogers Brubaker and Will Kymlicka.

Conceptual aspects of nationalism

Most authors agree that there are two main forms of modern nation-building in Europe: the state-nation which is more specific in the West, representing the civic model – based on the principle of territoriality and sharing the same set of political and legal framework, and the cultural nation or ethnic model in the East – based on sharing the language, culture and the myth of common origin.⁹ The utopia of ethno-nationalism so characteristic to Eastern Europe basically means that cultural and political borders must overlap.¹⁰ This is why the Eastern national body hardly accepts even its own citizen if it has a different ethnic identity than the majority. The nation-state has not only created the “figure of the loyal

9 Hans Kohn, *The Idea of Nationalism* (New York: Macmillan, 1945).

10 Ernest Gellner, *Nations and Nationalism* (Cornell University Press, 1983): 1.

citizen” but also its opposite, the unfaithful alien from the inside, most likely belonging to a national minority, especially those who also have a kin-state.¹¹

Many have tried to deal with the several interpretations of nationalism. According to Henk Dekker,¹² nationalism can equally mean political conviction or ideology, express one’s national identity or describe the process of nation-building and nation-state-building. In the following we shall use the latter two terms inside the theoretical framework of Kymlicka and Brubaker, regarding the dual model of minority and majority (state) nationalism.

“(…) *the essence of nationalism is precisely about political movements and public policies which actively attempt to ensure that states are indeed ‘nation-states’ in which the state and nation coincide.*”¹³ – sounds the frequently quoted definition by Kymlicka and Straehle. According to them the nation-state is a result of a consciously operated process, supported by the nation-building state¹⁴ itself, including the promotion of the official language, the national curricula, symbols and media since it would have been otherwise impossible to connect millions of people based only on emotion.¹⁵

Brubaker defined state nationalism with the following statement: a primary nation based on ethno-cultural grounds seeks to integrate its objectives into statehood and therefore the nation claims a right of property over the state which exists for the sole purpose of serving the nation.¹⁶ The most visible sign of this phenomena is that country names are usually given after the dominant nation. Another obvious consequence is the overlap between the terms of citizenship and nationality. Brubaker says that the ethno-cultural connection between state and nation is especially valid for Eastern Europe and the post-soviet states. However, nationalism does not always or does not primarily seek statehood¹⁷ – he adds, referring to the stateless national communities described by the term of minority nationalism. Brubaker’s triadic nexus includes the nationalizing state, the national minority, and the kin-state (or external homeland) – in this study we do not deal with the position of Hungary as kin-state but we cannot deny its crucial role in the life of the Hungarian minority communities, including those in Romania.

11 Péter Niedermüller, “Elavuló fogalmak” [Outdated concepts], *Regio*, no. 4 (2002): 144.

12 Henk Dekker, Darina Malova and Sander Hoogendoorn, “Nationalism and Its Explanations”, *Political Psychology*, no. 24 (2003): 345–376.

13 Will Kymlicka and Christine Straehle, “Cosmopolitanism, Nation-States, and Minority Nationalism: A Critical Review of Recent Literature”, *European Journal of Philosophy* 7, no 1 (1999): 74.

14 The term of nation-building comes from Karl Deutsch. See *Nation-building*, ed. Karl W. Deutsch and William J. Foltz (New York: Atherton Press, 1966).

15 Kymlicka and Straehle, “Cosmopolitanism, Nation-States, and Minority Nationalism,” 73.

16 Rogers Brubaker, *Nationalism Reframed. Nationhood and the National Question in the New Europe*, (Cambridge: Cambridge University Press, 1996): 5.

17 Rogers Brubaker, “Myths and Misconceptions in the Study of Nationalism”, in *The State of the Nation*, ed. John A. Hall (Cambridge: Cambridge University Press, 1989): 295.

At this point it is not at all irrelevant to stress that in multinational states like Romania (particularly in the region of Transylvania) the two dimensions of nationalism mutually stimulate and depend on each other. Since the rise of modern nationalism we are witnesses of “*simultaneously ongoing and competing nation- and state-building processes.*”¹⁸ In public spaces the “*connection of the nation-state to a dominant cultural identity*”¹⁹ becomes visible and applicable by default, while symbols of other nations are being tolerated or even banned. “*Indeed, such minority nationalisms are often the first target of state nationalism and of nation-building policies. (...) trying to eliminate their sense of forming a distinct nation within the larger state.*” – states Kymlicka and Straehle.²⁰ So when the minority claims publicity for its specific cultural signs, the majority strikes immediately to strengthen its control.

The Romanian nation-state and the Hungarian minority

A strongly embedded idea in Romanian public opinion is that Romania is an ethnically homogeneous nation-state – which opinion is also constantly promoted by the Romanian press and political elite. The statement is included in the Constitution, which properly stipulates it in Article 1. Nevertheless, the general public expressly means by it the Romanian ethnic nation, rather than the totality of citizens. With regard to the state, this means, among others, that it has a national constitution, thus the nation is the holder of sovereignty, and that the Romanian nation-state assumed the values, interests and elements (e.g. the official language, the national flag, the national anthem) of the Romanian majority, i.e. the dominant ethnic group. Thus, the prevailing principle is ethno-territoriality, which could be briefly summed up as *Romania belongs to the Romanians* – another frequent idea in public opinion.²¹

Obviously, the situation is more complex, as the same constitution also stipulates the legal framework for the protection of national minorities. Moreover, Romania has signed and ratified various international treaties in this field (e.g. the European Charter for Regional or Minority Languages, the Romanian-Hungarian Bilateral Agreement), while by

18 Csaba Zahorán, “Trikolórok, farkasok és turulok földje. Magyar és román szimbolikus gyakorlatok Erdélyben 1989 után” [The land of tricolors, wolves and turuls. Hungarian and Romanian symbolism in Transylvania after 1989], *Regio*, no. 1 (2016): 227.

19 Alpár Losonczi, “Szempontok a nemzeti kisebbség értelmezéséhez” [Certain aspects regarding the interpretation of national minorities], in *Szöveggyűjtemény a nemzeti kisebbségekről*, eds. Zoltán Kántor and Balázs Majtenyi (Budapest: Rejtjel Kiadó, 2005): 93.

20 Kymlicka and Straehle, “Cosmopolitanism, Nation-States, and Minority Nationalism,” 73.

21 For further information see: István Székely and István Horváth, “Diversity recognition and minority representation in Central and Southeast Europe: a comparative analysis,” *Nationalities Papers* 42, no. 3 (2014): 134.

2000 the scope of language, cultural and religious rights were further extended under Romanian law. It also cannot be overlooked that the Romanian state does not ban ethnic political parties, as Bulgaria does, so on a political level it tolerates ethnic pluralism.²²

Guaranteeing the rights of minorities and allowing the existence of ethnic political parties, however, does not change anything in the asymmetry of public law and power, which subsists between the majority Romanian nation and the Hungarian minority. In the concept of the Romanian nation-state there is no place for a separate political entity representing the Hungarian community of over 1.2 million people. The constitution only acknowledges the rights of citizens belonging to national minorities (the legal status is not understood as the minority group itself – *therefore it does not include the concept of collective rights and that of autonomy*) to preserve, develop and express their ethnic, cultural, linguistic and religious identity. It also guarantees that persons belonging to national minorities can study in their mother tongues on all levels of education. However, their right to use their mother tongue in public administration and justice is still limited.

Under such circumstances it is no wonder that the outcome of a sociological survey revealed that ethnic Hungarians from Romania primarily identify themselves to be part of the Hungarian (cultural) nation and only secondarily do they consider themselves to be members of the Romanian political nation as citizens. The majority of the persons polled, regard Romania their fatherland on a cognitive level only, without being emotionally tied to it.²³

Another (social) dimension of the issue is that the endorsement and legitimacy of minority rights and ethno-political demands is quite low in Romanian public opinion – at least according to one of the surveys conducted by the Romanian Institute for Research on National Minorities. For instance, only about 10% of Romanians would be willing to accept the autonomy of the Hungarian community. This is only aggravated by the fact that the various layers of Romanian society manifest a similar stance, i.e. not even a higher level of education in urban areas improves these results.²⁴ Kymlicka's observation is relevant that while in the West, the majority is wary of minorities when there is a threat of terrorism,

22 Tamás Kiss, "Etnikai hegemonia és transznacionalizmus?" [Ethnic hegemony and transnationalism?], *Pro Minoritate*, no. 4 (2015): 12.

23 "They consider Transylvania or a smaller region, such as Székelyland or Partium as their fatherland, while Romania is regarded more like some sort of extension thereof" – pointed out Valér Veress, head of the research survey. Source: Mónika Oborocea, "Mennyire egységes a magyar nemzettudat?" [How united is the Hungarian national identity?], *Új Magyar Szó*, 12 November, 2014.

24 Kiss, "Etnikai hegemonia és transznacionalizmus?" 18–20.

in the East, political and legal demands are sufficient to frighten the majority.²⁵ Some of the following case studies also demonstrate the mutually catalyzing effects of majority and minority nationalism; the Hungarian minority elite has become similarly sensitive towards the actions of the Romanian government.

Case studies: Autonomy and Székelyland²⁶

In Romanian society, a generally negative stance towards autonomy and particularly the autonomy of Székelyland can be observed — this is what sociological surveys indicate and what can be inferred from the attitude of the press and the political elite. In recent years, several government bodies have expressed a dismissive attitude towards this issue, and their positions have clearly reinforced public opinion in this ideological belief.

In its document entitled National Strategy on Public Order for 2015–2020, the Ministry of Internal Affairs of Romania lists among “*possible threats*” the “*racist, xenophobic, extremist and intolerant forms of manifestations which are aimed at obtaining ethnicity based territorial autonomy*”²⁷. The ministry states this cause-effect relation despite the fact that the Hungarian community in Romania has been attempting to achieve autonomy by using only democratic and lawful means (demonstrations, manifestos, petitions, etc.). Without any doubt, the mentioned “forms of manifestation” are against the law, however, conceptually connecting them to autonomy is unfounded. A similar rhetoric and logic can be observed in the “Mission” section of the Romanian Intelligence Service’s (Serviciul Român de Informații – SRI) webpage: “*Our activity also covers violent actions against the values of Romanian identity, which take the form of autonomist and separatist actions.*”²⁸ In its 2014 report,

25 According to Kymlicka, the object of (irrational) fear is loss of loyalty and secession, whereas by guaranteeing of rights the opposite effect would be triggered. See: Will Kymlicka, “Justice and security in the accommodation of minority nationalism”, in *Ethnicity, Nationalism, and Minority Rights* ed. Stephen May, Tariq Modood and Judith Squires (Cambridge: Cambridge University Press, 2004): 156.

26 Székelyland (Székelyföld in Hungarian) is a historical and geographic region, inhabited by Hungarians in a proportion of over 80%. 38% (470,343 people) of the Hungarians live in this region in Romania. This community has a historical, cultural and economic tradition in a common geographical space, covered today mainly by three administrative units (Harghita, Covasna and Mureș counties).

27 “National Strategy on Public Order 2015–2020”, <http://www.mai.gov.ro/documente/transparenta/SNOSP%202015-2020%20.pdf>, 6., accessed 17 August, 2017. (Original quote in Romanian: “*manifestări de rasism, xenofobie, extremism și alte forme de intoleranță, având drept scop obținerea autonomiei unor zone/ regiuni pe criterii etnice.*”)

28 “Misiunea noastră” [Our mission], SRI webpage, www.sri.ro/misiunea, accessed 15 May, 2016.

the SRI labeled the open demand for autonomy as ethnic extremism.²⁹ Moreover, the Superior Council of Magistracy (Consiliul Superior al Magistraturii – CSM) expressed its particular opinion on the autonomy draft released for public discussion in 2014 by RMDSZ, pointing out that: “*releasing for public discussion issues that go against the constitutional order attacks the principles of the rule of law*”.³⁰ According to this, territorial autonomy cannot be subject to any public discussion as it is anti-constitutional. In its resolution, CSM disregards the fact that the same constitution justifies political pluralism and freedom of opinion, thus it declares any autonomy concept unconstitutional without providing any arguments to support the claim.

Questioning the existence of Székelyland

The rejection of autonomy goes hand-in-hand with the denial of Székelyland's existence. This has been expressed in public opinion and in official state discourse as a consequence of the increasingly expressed demand for autonomy.

In February 2016, the Court of Appeal of Tîrgu Mureş ruled that a Székely-Hungarian civil organization called Pro Turismo Terrae Siculorum established for the promotion of Székelyland cannot be registered under this name. Thus, the Court of Appeal basically confirmed the previous ruling of the court of first instance (Tribunal of Harghita county), which not only denied the existence of the region but also called the initiative anti-constitutional, referring to Article 3 (3) of the Constitution.³¹ Basically, the first court argued that Székelyland cannot be promoted because it does not exist as an administrative unit.

In the letter of appeal, the plaintiff argued that other historical regions without an administrative status such as Bucovina³² can be freely promoted for touristic purposes and

29 “*As regards to ethnic extremism, open demand of the set objective has appeared in the autonomist discourse.*” (Original quote in Romanian: “*Pe dimensiunea extremismului etnic, discursul pro-autonomist a relevat tendință de clamare deschisă a acestui deziderat.*”) 2014 Activity Report of the SRI, http://www.sri.ro/assets/files/rapoarte/2014/Raport_SRI_2014.pdf, 7., accessed 17 August, 2017.

30 “*CSM, despre proiectul de autonomie a Ținutului Secuiesc: Agresiune la principiile statului de drept*” [CSM on the autonomy project of the Székelyland: Attack on the principle of the rule of law], *Mediafax News Agency*, <http://www.mediafax.ro/social/csm-despre-proiectul-de-autonomie-a-tinutului-secuiesc-agresiune-la-principiile-statului-de-drept-13250142>, accessed 17 August, 2017. (Original quote in Romanian: “*lansarea în spațiul public, a unor teme ce exced cadrului constituțional, o agresiune la principiile statului de drept.*”)

31 “*The territory is organized administratively into communes, towns and counties. Some towns are declared municipalities, according to the provisions of the law.*”

32 Bucovina was part of the Austrian-Hungarian Empire, annexed by Romania after the First World War and then divided between the Soviet Union (today: Ukraine) and Romania after the Second World War. It lies outside the Carpathian basin, to the North of historical Moldova.

there is even an association under the name of *Asociația pentru Turism Bucovina* (Association for the Tourism of Bucovina). The court of appeal admitted that not only administrative units but also historical regions can be promoted, but it argued that “*Székelyland is a non-existent region defined on ethnic grounds*” (sic!), and that makes it an exception to the rule. According to the court’s interpretation, Bucovina and other similar regions can be freely promoted as touristic destinations because they lack a distinct ethnic character, while Székelyland is subject to the ban. This is another case of double standards and discrimination that the Hungarian minority has to face because of the Romanian judicial system’s bias.

Case studies: Symbols (flag, national anthem)

National symbols are the most expressive elements of nation-building both for the majority (Romanians) and the minority (Hungarians), and due to their ethno-cultural character, in principle, they generally exclude each other in the public sphere. The use of symbols also involves loyalty towards a given nation, and it is difficult to be a member of both nations at the same time, because of the tumultuous past and the traditional “us and them” detachment. The parallel nation-building (Romanian and Hungarian) is going on in Transylvania even today through the symbolic expropriation of public space. The elites on both sides are seeking to put across their own symbols — and this is essentially a power game. The Hungarian side dwells on the issue of Romanian nation-state hegemony and demands the free use of the minority’s symbols, while the Romanian side seeks to maintain the *status quo* and to enforce the limited use (that is to say: occasional use, e.g. for festive purposes only) of minority symbols.

The Székely flag, revived by the Székely National Council (Székely Nemzeti Tanács in Hungarian – SZNT), is also closely related to the issue of autonomy,³³ which is why the Romanian authorities have shown a similarly rejecting stance towards the flag. The reaction of authorities, however, was interpreted by the political representatives of the Székelys not only as a mere step against autonomy, but directly as the repression of a community. As a result, in the recent years the Székely flag has become deeply rooted in the soil of regional identity. Székelys now view the flag not necessarily only as a symbol of the autonomy, but

33 The relationship between autonomy, minority nation-building and symbols were formulated by Sándor Tamás, president of the Council of Covasna county, in one of his declarations as follows: “*In recent years we have been emphatically preoccupied with the issues related to Székelyland, including that of the autonomy, and extremist Romanians are disturbed by this. Let it be clear, despite the threats, we shall not give up on our own identity*” Source: RMDSZ press release 20 June, 2013. <http://www.rmksz.ro/sajtoszoba/hir/jogilag-megsemmitettek-kovaszna-megye-zaszlat>, accessed 17 August, 2017.

— also due to its powerful promotion — it has become the ultimate symbol of the Székely community. In the following I will explain and analyze in detail the position of the Romanian authorities on this issue.

The Székely flag labelled as commercial and illegal

In December 2013, the Hungarian National Council of Transylvania (Erdélyi Magyar Nemzeti Tanács – EMNT) was fined by the Local Police of Tîrgu Mureş for displaying the Székely flag on at the EMNT headquarters, without proper authorization for commercial flags. Less than a year later (August 2014), EMNT president László Tőkés³⁴ was fined by the local police in Oradea for the same reason: displaying the Székely flag in public. Outraged by the unjust actions of the local police, which basically underrated the symbol of the Székely community to a commercial level, both the EMNT and László Tőkés filed a lawsuit against the fines.

Despite the obvious analogy, the two cases had very different outcomes within a short period of time. While the Tribunal of Bihor County confirmed the lawfulness of the fine received by László Tőkés (November 2015), the Tribunal of Mureş County ruled in favor of the plaintiff EMNT and dismissed the fine (February 2016). Hence, the Székely flag was regarded as a commercial flag in the former case, which not only affects the dignity of the Székely community, but it is also unjust because the verdict does not state what product or service it actually advertises – an essential condition for something being labeled as commercial.

The case of the Székely flag also proves how badly the rule of law works in Romania: albeit subject to the same law, two courts of the same country ruled on two analogous cases in two different ways. If we accept that justice is unitary and equal for all, one of the courts is surely wrong and it could only be the Tribunal of Bihor County which simply ignored a symbol of the Székely-Hungarian community, unlawfully labeling it as commercial.

34 László Tőkés is a Hungarian Calvinist priest and former bishop who resisted the communist regime and became one of the leaders of the Romanian Revolution in 1989. First he was also a member and leader of RMDSZ but due to internal conflicts he later founded his own party, the Hungarian National Party of Transylvania (EMNP). Since 2007, he is a Member of the European Parliament.

The Székely flag labelled as discriminatory

In October 2014, the Supreme Court of Romania ruled that the public display of the Székely flag is a discriminatory act against the Romanian community living in Harghita and Covasna counties (parts of Székelyland). By doing so, the Supreme Court overruled the previous decision of the National Council for Combatting Discrimination (Consiliul Național pentru Combaterea Discriminării – CNCD) that had rejected the petition of three Romanian civil organizations regarding the discriminatory character of the Székely flag. If we accept the Supreme Court's decision as such, we may also argue that the Romanian flag would be discriminatory against the Hungarian community living in Romania. Theoretically, the analogy seems to be correct; both flags hold an ethnic character and both are symbols of the ethnic majority. The case clearly reflects the nation-state's rigid position that disables it to self-reflect and makes it impossible to take a neutral decision, free of nationalist ideology. The nation-state ignores the fact that its own symbol may not be representative for the entire population, because it would question its own legitimacy and would clear the way for the acceptance of multinational statehood, and thus, for the acceptance of the minorities' symbols.

While there is visible opposition against the Székely flag both in the fields of public administration and justice, the flag of Bucovina has been allowed to freely flutter in one of the public spaces of Gura Humorului, after ceremoniously raising it on a mast on the Day of Bucovina (28 November 2016). This case again shows double standard in the Romanian judicial system.

Fined for singing the Hungarian national anthem

In June 2014 (notably on the Day of Remembrance of the Treaty of Trianon), during a public event organized by the Hungarian Civic Party (Magyar Polgári Párt – MPP),³⁵ the Hungarian national anthem was played. There was nothing peculiar to it, as the Hungarian anthem is publicly sung throughout Transylvania, however, the prefect of Covasna County fined the Hungarian party. The reason: the Hungarian anthem may only be intoned without musical accompaniment, unless an official from Hungary is present. The prefect was making reference to a legal act on the anthems of other countries. Actually,

35 In Hungarian: Magyar Polgári Párt (MPP). The Hungarian Civic Party was founded as a union in 2001 and was formally registered in 2008 to offer a political alternative to RMDSZ, positioning itself as a regionalist party focusing on autonomy.

what happens to be the Hungarian national anthem is the anthem of the entire Hungarian nation, understood as a cultural nation, regardless of country borders. Categorizing the anthem of the Hungarian national(!) minority as foreign is inappropriate and indicates ignorance on the prefect's side. As a matter of fact, the position of the prefect coincides with an already established conception in the Romanian public opinion: by singing their own anthem – which happens to be the anthem of another country, – Hungarians from Transylvania prove themselves to be unfaithful citizens of Romania. Eventually, the fine was dismissed by the court, and the prefect lost the trial because the allegations were not found justified. However, the case still had a negative impact on Romanian-Hungarian relations, triggering massive protests.

Case studies: The use of the Hungarian language

Gheorghe Funar, former mayor of Cluj-Napoca repeatedly labelled the Hungarian language as “*the language of horses*”, probably referring to the nomadic lifestyle of the first Hungarian settlers of the 9-10th centuries. He was eventually fined by the National Council for Antidiscrimination in March 2015 for affecting the dignity and creating a hostile atmosphere against the Hungarian community. Yet, this is just a trivial expression of an attitude latently prevailing in Romanian public opinion, according to which the Hungarian language has a secondary status to Romanian. At this point it is necessary to repeat that the public use of minority languages is (conditionally) allowed in Romania by several domestic and European norms, but there are still no control and sanction mechanism for violating the norms, furthermore, some norms are not precisely formulated. These aspects eventually lead to abusive omissions and interpretations that impede proper application. In the following, we will look at the way the nationalist approach can be observed in Romanian public administration and justice regarding Hungarian language use.

Fine for the public use of Hungarian

In October 2013, the local police of Tîrgu Mureş, headed by Valentin Bretfelean, fined a Hungarian woman for distributing bilingual (Hungarian and Romanian) product tags to the vendors at a local food market. The declared objective of the action was to raise awareness of bilingualism, and implicitly, to promote the use of the Hungarian language. The local police qualified the action as an unauthorized advertising action. The interpretation of the law on advertising clearly went beyond its possible scope, and thus it acquired an

anti-Hungarian character, as it did in the case of the Székely flag (see above). There was no act of commercial advertising by the fined person; the woman had not been driven by financial gain, but by the civil objective of promoting the use of Hungarian. Although the final court ruling ordered the revocation of the fine, instead of total annulment it only downgraded it to a warning, implicitly declaring the action unlawful and the sanction justified. In March 2015, the same local police sanctioned the volunteers of the Civic Engagement Movement (Civil Elkötelezettség Mozgalom – CEMO) when they mounted bilingual street signs on several private buildings — after having obtained the consent of the owners — on the streets of Tîrgu Mureş. Tired of the reluctance and resistance of the Mayor's office going on for years, as well as of the incapacity of RMDSZ (Romániai Magyar Demokrata Szövetség, Democratic Alliance of Hungarians in Romania) in the matter, the group acted on its own. The motivation for the substantial fine (around 1,000 EUR) included the provisions of the above mentioned advertising act, but in this case, the administrative court dismissed the sanctions. However, the CEMO was not completely satisfied with the decision, as the court had not declared the abusive treatment of the local police; there is no reasonable or justified way to interpret street signs as advertising.

Nationalist opposition to multilingual place name signs

Meanwhile in Cluj-Napoca trials were underway concerning the multilingual place name signs, and there were civil movements in favor of general public bilingualism. During one of these occasions, the anonymous activists of the MOST-ACUM (Movement for free language use) replaced the Romanian banner of the Mayor's Office located in the Central Park with an identical, but bilingual one, which also stated the name of the Mayor's Office in Hungarian under the Romanian designation. The next day, however, the Hungarian part of the banner was simply cut off by the Mayor's office staff. Anna Horváth, then vice mayor of Cluj (RMDSZ) blamed the Romanian political elite and the lack of will of the majority for the failure to put bilingual place signs in Cluj. She also welcomed the activity of civil action groups working for bilingualism, pointing out that “*there will only be a real chance for this to happen if we succeed in convincing Romanian public opinion regarding this issue, as currently they are concerned about the number of votes lost by endorsing such causes*”.³⁶

36 Horváth Anna, “Előbb a román közvéleményt kell meggyőzni helységnevtáblaügyben” [First the Romanian public needs to be convinced in the matter of place names], *Krónika*, 25 May, 2016. <https://kronika.ro/erdelyi-hirek/horvath-anna-elobb-a-roman-kozvelemenyt-kell-meggyozni-helysegnevtablyagben>, accessed 17 August, 2017.

Thanks to the civil, political and legal pressure from Hungarians, in March 2017, a favorable court decision was issued in the first instance, and at the last minute, Mayor Emil Boc announced that he would refrain from filing an appeal against that decision, and approved the multilingual place name signs. Since then, place name signs are in Romanian, Hungarian, and German.³⁷

Official inscriptions in Hungarian – banned

The subject of lawsuits initiated in 2015 by Romanian blogger and self-appointed rights' defender (of the Romanian majority), Dan Tanasă border on the absurd. On behalf of the Civic Association for Dignity in Europe (Asociației Civice pentru Demnitate în Europa –

ADEC), Tanasă requested many mayors of municipalities in Székelyland to remove the inscriptions of the town hall in Hungarian (*községháza*, literally translated as house of the village), as these names do not have a Romanian equivalent, and they are being used unlawfully. According to ADEC, the same applies to the terms referring in Hungarian to city hall and county hall. Of no avail did the mayors try to explain that these terms denote the building and not the institution, so they fall outside the scope of the Act on Public Administration. Nevertheless, the county courts in Harghita and Covasna counties still ruled in favor of ADEC in most cases, accepting the awkward reasoning. There was one single exception: Csíkszentdomokos (Sândominic), where the formal reason for the rejection was that ADEC failed to pay the stamp duty of the lawsuit in time. This exception, however, does not provide any guarantee to other cases. In Covasna county, where there have been attempts to accurately translate the term used in Hungarian (Megyeháza – meaning County Hall, translated as Casa Județului), ADEC still filed a complaint, and won the lawsuit. The absurdity of the situation actually lies in the fact that the Romanian authorities hold the Hungarian inscriptions accountable

37 The history of the case goes back to 2013 when a foundation based in the Netherlands called European Committee for Human Rights of Hungarians in Central Europe first asked the court to oblige the City of Cluj-Napoca (i.e. the Local Council and the Mayor's Office) to install new bilingual place name signs, including also the Hungarian version "Kolozsvár". The foundation argued that the number of Hungarians living in Cluj-Napoca is substantial (cca. 50 000 people – plus cca. 7–8000 university students), as determined by Article 11 of the European Framework Convention on National Minorities. Therefore the Hungarian community is entitled to its linguistic rights, even though its number falls below the 20% threshold set by Act No. 215/2001 on local administration for bilingual signs. In addition, the foundation showed that, according to this law and the census data available at that moment, the Local Council adopted a decision in 2002 in order to install the bilingual signs in Cluj-Napoca, but it was never carried out by the Mayor's Office.

for the incompatibility of the vocabulary of the two languages. Hence, dozens of such inscriptions had to be removed, even though there is no legal interdiction to place such inscriptions on public buildings.

Conclusions

This paper tried to highlight the cultural-nation character of the Romanian nation-state through certain legal and judicial examples, which provides the ground for the limited support and protection of national minorities. Its hybrid character means also that it privileges the members of the majority nation, and avoids the recognition of any other collective legal entity, while stipulating in its constitution the rights of people belonging to other minorities. For the sake of completeness, however, it must be noted that the application of and respect for minority rights is not without difficulties, but this should be the subject of further research. The case studies demonstrate that decision makers – either consciously or not – are protecting the Romanian nation-state status quo, and in particular, the hegemony of the Romanian language and Romanian national symbols. A regular feature of the official positions analyzed in the paper is the application of double standards, and the restrictive manner in which minority rights are being interpreted (cf. whatever is not expressly allowed is therefore prohibited). The efforts in favor of the autonomy of Székelyland are considered extremist ethnic separatism by several national authorities. Furthermore, both the existence of Székelyland and the attempts for autonomy are seen by decision makers as threatening factors to the indivisible national unity as guaranteed by the 1st article of the Romanian Constitution. The autonomy cause, together with the Hungarian and Székely symbols, are perceived as an attack against Romanians and Romanian values, and they are regarded as disloyalty.

In a modern and developed political structure state representatives make decisions based on professional grounds, and not driven by emotions and prejudices. What we can see instead is that illegitimate decisions are made under the cover of legality, in a controversial, unfounded, and biased fashion, lacking professionalism and independence. We could observe that not only public administration bodies, but also courts have issued such decisions, whereas the judicial system should provide guarantees against state abuse, should be unbiased and independent, and should protect citizens against the state.

Under such circumstances there are at least two important consequences: 1) legal security and the rule of law in Romania can be questioned; 2) it leads to mutual distrust, enlarging the already existing gap in the Romanian – Hungarian relationship, which may also lead to radicalization. By radicalization we definitely should not think of violent

confrontations, such as those occurred in March 1990 in Tîrgu Mureş³⁸. In most cases, these conflicts take place in the public discourse (broadcasted by the media), but when they exceed those boundaries, they may easily take the form of demonstrations and vandalism – enough to mention some cases when paint was thrown on Hungarian inscriptions of certain place name signs and on the Statue of Liberty in Arad.³⁹

Nevertheless, the presence of majority nationalism is proven by various sociological surveys. It would still be difficult to speak of a systematic Romanian state nationalism, as strategic ideological documents are lacking, and there is no institutional representation of state nationalism. In other words, nationalist initiatives of some politicians in the Parliament and the Government of Romania are quite isolated, and usually do not end up as legal acts; public policies and institutions are not being built on nationalist views. In the Romanian public sphere, nationalism appears in a latent, irrational and incoherent form, which means that from time to time, certain public figures express nationalist views (especially in minority-related issues). Often, these views gain momentum in state structures only when people with such views end up in decision-making positions. However, their influence should not be underestimated as they transform nationalist feelings into xenophobia.

It is of course hard to prove that behind these actions there is an intention to undermine the political demands and civil movements of Hungarians, but the effects are clearly discriminatory against the Hungarian community. It is not at all secondary that maintaining the so-called “Hungarian danger” in the Romanian public discourse ensures a stable material support and legitimacy for several state bodies, such as the intelligence services, the police, the Ministry of Internal Affairs, the National Anticorruption Directorate (Direcția Națională Anticorupție – DNA), The Directorate for Investigating Organized Crime and Terrorism (Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism – DIICOT), etc. – they may all have a direct interest in nurturing antipathy and antagonism. These conclusions might sound slightly speculative but, even according to Brubaker, nationalism should be viewed as a kind of politics that is primarily directed by interests, rather than by emotional attachment to national identity.⁴⁰ It is similarly hard to prove that there are actual nationalist beliefs behind the decisions of the Romanian public administration and judicial authorities, yet, the existence of discrimination on ethnic or linguistic grounds is obvious in some of the cases (flag of Székelyland vs. flag of Bucovina).

38 In March 1990, short but violent clashes occurred in Târgu Mureş between local Hungarians and Romanians. These clashes (also called *Black March* by some Hungarian authors) left several people dead and hundreds injured. The reasons are controversial and the responsibility is still disputed.

39 See picture of the vandalized statue here: <http://mikoimre3szek.ro/Jelentesek/ismeretlen-tettesek-meggyalaztak-az-aradi-szabadsag-szobrot/>, accessed 17 August, 2017.

40 Rogers Brubaker, “Myths and Misconceptions in the Study of Nationalism,” in *The State of the Nation* ed. John A. Hall (Cambridge: Cambridge University Press, 1989): 290.

A typically nationalist reasoning with a peculiar logic can be observed in all these decisions; they interpret every claim of the minority, regardless how legitimate they are, in the context of the priority of the national principle, placing the fundamental requirements of lawfulness, the rule of law, and justice behind the legitimacy of the majority and the nation-state. Hence, every refusal based on nationalist grounds produces and reproduces frustration among the minority, nurturing a spirit of conflict instead of respect and cooperation. This is why I believe it is appropriate to end my study with the words of Brubaker: “*nationalism is not always a subjectively rational or objectively successful political strategy.*”⁴¹

41 *Ibid.* 289.