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MINORITY POLITICS
AND INTERNATIONAL RELATIONS:
THE CASE OF THE UKRAINIAN–HUNGARIAN
JOINT COMMISSION ON NATIONAL
MINORITIES¹

Abstract: There are two levels of international relations: multilateral and bilateral. A specific version of bilateral treaties was the conclusion of the basic treaties in the period following the democratic change in Central and Eastern Europe, which, among other things, laid down mutual recognition of borders and the protection of minorities. On the basis of the Hungarian-Ukrainian Declaration on the rights of national minorities, which is stated in Article 17 of the Hungarian-Ukrainian Basic Treaty was established the Hungarian-Ukrainian Joint Commission for National Minorities, whose activities are analysed in this study.

Historians interpret the meeting of President Mikhail Gorbachev and President George H.W. Bush in Malta as the moment when the Cold War finally ended; however, the two sides had different understandings of the meeting. In Bush's opinion, the victory of freedom meant the victory of America. At the same time, Gorbachev thought that the US President replaced the Brezhnev Doctrine with an equally unpalatable Bush Doctrine.² The situation was neither clear nor irreversible when a transition process towards democracy started in Central and Eastern Europe.

The radical political changes that took place at the turn of the 1980s and 1990s also led to an increase in the importance of bilateral relations. As a result, a number of bilateral friendship and good neighbourliness treaties were signed—these are collectively referred to as the basic treaties, which mostly covered minority issues, along with many other areas of bilateral relations—economic, cultural, environmental, etc. Treaties of

1 This work was supported by the Hungarian National Research, Development and Innovation Office–NKFIH (under grant number 143523, The parliamentary representation of minorities in international comparison: descriptive or substantive representation?).

2 Sergey Radchenko, "Mikhail Gorbachev's 1989," *Atlantisch Perspective* 43, no. 6 (Special Edition: Thirty Years after the End of the Cold war) (2019): 30–33.

good neighbourliness and friendship—in German jargon—are not called basic treaties for nothing, since their primary purpose is to regulate relations between two states in a new political situation in a general way. Thus, they generally enshrine the inviolability of borders, a commitment to the peaceful settlement of disputes and the prohibition of the use of force, in accordance with the general principles of international law.³

In Hungary, the triple foreign policy objective announced by the Antall government (Euro-Atlantic integration, good relations with neighbouring countries, protection of Hungarian minorities) was based on the conclusion of treaties with neighbouring countries (with the exception of Austria). The Antall government signed the Hungarian–Ukrainian, Hungarian–Croatian and Hungarian–Slovenian treaties, and the Horn government signed the Hungarian–Slovak and Hungarian–Romanian treaties. These bilateral instruments fitted in the process of the formation of a multi-level European system of minority protection, the first element of which was the 1991 Hungarian–Ukrainian Basic Treaty. For Ukraine, it was also the first international agreement the country signed as a newly independent state. Later on, Ukraine signed similar treaties with Poland, Moldova, Slovakia, Belarus, Romania and Russia, which included the recognition of territorial integrity, invoking international law.

In this paper, the minority protection clause of the Hungarian–Ukrainian Basic Treaty and the activities of the Ukrainian–Hungarian Joint Commission on National Minorities established in accordance with the treaty are discussed.

Hungarian–Ukrainian Declaration on the rights of national minorities

In the late 1980s, Hungarian politicians started to dedicate more and more attention towards Hungarians living on the territory of the neighbouring countries. Visiting Transcarpathia, the westernmost territory of Ukraine with a significant Hungarian population, in April 1989, Károly Grósz, Secretary General of the Hungarian Socialist Workers' Party in his speech at the Uzhhorod State University stated that “The development of our country has arrived at a turning point”, and “[i]t is unquestionable that—owing to an unreasonable shyness—we have not spoken about the situation of Hungarians living in Transcarpathia for decades.” He added that “The relation of Hungary to its neighbours is clear and unquestionable, and you must know that the

3 See on details: Balázs Vizi, “Kétoldalú szerződések és a kisebbségek védelme a nemzetközi jogban [Bilateral treaties and the protection of minorities in international law],” in *Magyarország és szomszédai. Kisebbségvédelem a nemzetközi jogban [Hungary and its neighbours. Minority protection in international law]*, ed. Balázs Vizi (Budapest: L'Harmattan Kiadó, 2021), 10–45.

Hungarian People's Republic does not have territorial claims against any of the neighbouring countries.⁴

Prime Minister József Antall met Mikhail Gorbachev first in Moscow in June 1990. While exchanging their views, Antall stressed that—as for the foreign policy of Hungary—neither the economic situation nor the international relations of the country will be at risk.⁵ A novel feature in the Hungarian Eastern politics was that, with the weakening of Moscow, relations had to be developed with the USSR's constituent republics. At the same time, mutual visits of the leading Hungarian and Ukrainian politicians became regular beginning from the summer of 1990. Hungary ensured Ukraine several times that despite Moscow's disapproval, Hungary supported the sovereignty claims of Ukraine, which was at the time still a republic of Union.⁶ During the attempted 1991 Soviet coup d'état, Antall showed solidarity with Gorbachev's leadership. He summoned the National Security Cabinet and condemned the coup in his television address to the people. The Soviet Ambassador in Budapest reported sick and recovered only after the failure of the putsch.⁷

When President Árpád Göncz visited Ukraine in September 1990, he and Leonid Kravchuk, Chairman of Ukraine's parliament (*Verkhovna Rada*) issued a joint communication in which they declared that “The Parties expressed their intention to make further steps in order to codify and protect the rights of national minorities living in their countries.”⁸ Kravchuk's visit to Budapest on 30 May and 1 June 1991 brought along a breakthrough: nine documents were signed that meant the start of the establishment of a bilateral legal framework. Among the adopted documents were the Declaration on the principles of cooperation between the Republic of Hungary and the Ukrainian Soviet Socialist Republic in guaranteeing the rights of national minorities, and the Protocol to the Declaration on the principles of cooperation between the Republic of Hungary and the Ukrainian Soviet Socialist Republic in guaranteeing the rights of national minorities.⁹

In the Declaration, the parties undertook, among other things, to ensure the free choice of nationality, the legal conditions for the protection of minority membership, their participation

4 *Magyar Külpolitikai Évkönyv [Hungarian Foreign Policy Yearbook]* (Budapest, 1989), 178–179.

5 Ernő Keskeny, *A magyar–oroszkapcsolatok 1989–2002 [Hungarian–Russian relations 1989–2002]* (Budapest: Századvég, 2012), 71.

6 *Ibid.* 83–85.

7 Keskeny, *A magyar–oroszkapcsolatok [Hungarian–Russian relations]*, 88.; Géza Jeszenszky, “Antall József, a külpolitikus [József Antall, foreign politician],” in *A politikus Antall József – az európai úton [The politician József Antall - on the European way]*, eds. Géza Jeszenszky Géza, Károly Kapronczay, and Szilárd Biernaczky (Budapest: Mundus, 2006), 83.

8 *Magyar Külpolitikai Évkönyv [Hungarian Foreign Policy Yearbook]* (Budapest: Összeállította a Külügyminisztérium, 1990), 247.

9 Björn Arp, *International Norms and Standards for the Protection of National Minorities. Bilateral and Multilateral Texts with Commentary* (S.L: Brill, 2008), 268–270.

in public life, the exercise of their mother tongue rights, etc., and expressed their willingness to set up a Joint Commission on National Minorities “to put into practice the principles set out in the Declaration and to monitor the implementation of the commitments undertaken”. The Protocol to the Declaration set out the composition and the framework for the functioning of the Joint Commission.

In parallel with the above documents, the preparation of a basic treaty was under way, the idea of which was first raised by the parties at the above summit. The first draft text was prepared by the Ukrainian side in spring 1991, which did not yet include either the border issue or the issue of minorities. By October 1991, the second, improved draft was ready, which already included the territorial clause and an article on the rights of the Hungarian minority.¹⁰ The Hungarian Foreign Minister at the time, Géza Jeszenszky, made documented reference to the fact that the Ukrainian side made the guarantee of minority rights conditional on the inclusion of the territorial clause.¹¹

The territorial clause—the “German formula”—was first formulated in Article 1(2) of the 1970 Warsaw Treaty between the FRG and the Polish People’s Republic on the basis of which the two countries normalised their relations, including the phrase “now and in the future” (“jetzt und in der Zukunft”). This turn of phrase was then used in Article 3 of the 1972 Basic Treaty between the FRG and the GDR, Article 4 of the 1973 Prague Treaty between the FRG and Czechoslovakia, and Article 2 of the border treaty between Germany and Poland of 14 November 1990, from which the Ukrainian side took the example of the need to include not only a guarantee of territorial integrity in the treaty by reference to international treaties, but also a separate territorial clause. This border treaty was the first of the treaties to be referred to in the German-Polish treaty of 17 June 1991, which was intended to reconcile the two countries and which became the model for treaties containing a territorial clause in Central and Eastern Europe, and was also included by Ukraine and Hungary in the treaties concluded with most of their neighbours.¹²

After the referendum on Ukraine’s independence held on 1 December 1991, Hungary was one of the first countries to recognize Ukraine as an independent state, whereby an important consideration was to assist in strengthening the position of the Hungarian minority in the country. The Hungarian–Ukrainian Basic Treaty was the first international agreement signed by Ukraine, and it was also the first basic treaty to be signed by Hungary

10 *Magyar Külpolitikai Évkönyv [Hungarian Foreign Policy Yearbook]* (Budapest, 1983), 205–206.; János Sáringer, *Iratok az Antall-kormány külpolitikájához és diplomáciájához. II. k. [Documents on the foreign policy and diplomacy of the Antall government. Vol. II.]* (Budapest: Veritas – Magyar Napló, 2018), 336–337.

11 Géza Jeszenszky, *Kísérlet a trianoni trauma orvoslására. Magyarország szomszédsági politikája a rendszer-változás éveiben [Kísérlet a trianoni trauma orvoslására. Magyarország szomszédsági politikája a rendszer-változás éveiben]* (Budapest: Osiris Kiadó, 2016), 272.

12 Csilla Fedinec and Norbert Tóth, *Romantikus jog – fapados gyakorlat: A magyar–ukrán szerződéses viszony [Romantic law – cheap practice: the Hungarian–Ukrainian bilateral relations]* (Budapest: TK Ki-sebbségkutató Intézet – L’Harmattan Kiadó, 2022), 28–29.

with a neighbouring country in the post-Communist era. For Ukraine, the treaty was particularly significant because it reaffirmed the inviolability of the country's borders. Even today Ukraine views the treaty as the highest point of Ukrainian–Hungarian relations.

Ukraine and Hungary signed the Hungarian–Ukrainian Basic Treaty (“Treaty on the Foundations of Good Neighbourhood and Cooperation between the Republic of Hungary and Republic of Ukraine”) in Kyiv on 6 December 1991. The basic treaty was ratified by Ukraine’s *Verkhovna Rada* on 1 July 1992 and by the Hungarian National Assembly on 11 May 1993. Ratification documents were exchanged in Budapest on 16 July 1993; since then, the treaty has been in force.

The Treaty became part of the Hungarian domestic legislation through Act XLV of 1995 together with the Declaration to the rights of national minorities and the Protocol to the Declaration to the rights of national minorities.¹³ In Hungary, the treaty has come under fierce attack during the parliamentary debate, at street rallies, in every possible forum. The Hungarian political elite was extremely divided not only by the debate, but also by the parliamentary (roll-call) vote itself: of the 386 MEPs present, 279 voted in favour, 223 against, 39 against and 17 abstained. The largest number of no votes and abstentions came from the largest governing party, the Hungarian Democratic Forum (MDF). Critics claim that the contract was concluded above the heads of the Transcarpathian Hungarians, but the fact is that there were multiple consultations with the leaders of the most important Transcarpathian Hungarian organisation the Transcarpathian Hungarian Cultural Association.¹⁴

Zsolt Németh, a leading Fidesz politician, said some time later that “[...] we supported the basic treaty for two reasons, and only one of them is that the Hungarian far right was created along the lines of the rejection. It was a real foreign policy bravura that Hungary was able to sign a basic treaty just five days after the birth of independent Ukraine. We appreciated this by saying ‘yes’ to the treaty, even though we had our doubts about the somewhat hastily put together document. We believe that the border clause was not adequately compensated, although it is a fact that the Ukrainians have made more commitments on minority policy than either the Slovak or Romanian side would have even vaguely promised so far.”¹⁵

13 Original text: 1995. évi XLV. törvény a Magyar Köztársaság és Ukrajna között a jószomszédság és az együttműködés alapjairól Kijevben, az 1991. évi december hó 6. napján aláírt Szerződés kihirdetéséről. Available from: <https://net.jogtar.hu/jogszabaly?docid=99500045.tv>.

14 See on details: Keskeny, *A magyar–oroszkapcsolatok [Hungarian–Russian relations]*, 96.

15 András Mink, “Az alapszerződés ma inkább bunkósbot, nem a történelmi megbékélés eszköze”. Interjú Németh Zsolttal, a Fidesz alelnökével, a parlament emberjogi és kisebbségi bizottságának elnökével a kisebbségi politikáról [‘Today the Basic Treaty is more a bludgeon than an instrument of historical reconciliation’. Interview on minority policy with Zsolt Németh, vice-president of Fidesz, chairman of the Human Rights and Minorities Committee of the Hungarian National Assembly], *Beszélő*. Available from: <http://beszelo.c3.hu/cikkek/%E2%80%9Eaz-alapszerzodes-ma-inkabb-bunkosbot-nem-a-tortenelmi-megbekeles-eszkoze%E2%80%9D>.

In the Ukrainian legal order, the Declaration on the rights of national minorities and the Protocol to the Declaration on the rights of national minorities took effect since the day of the signature (31 May 1991).¹⁶ The Ukrainian text of the Declaration on the rights of national minorities contains 18 Articles while the Hungarian text contains 19 Articles. The Ukrainian text does not contain Article 19: „The Parties declare that further states shall be welcome to join the present Declaration and express their readiness to consult all concerned states on the principles laid down herein.”

In both multilateral and bilateral relations, states have not only adopted treaties concerning the protection of minorities, but also political documents and declarations that are not legally binding. These mostly serve to express moral-political commitments, which the states did not want to make legally binding. In international law, however, it is not the name but the intention of the signatories that determines whether the parties, even in a joint declaration, are legally bound.¹⁷ Such declarations may even indicate an intention to enter into a contract (*pactum de contrahendo*), which may result in a contract actually being signed. This was the case, for example, with the Declaration on Minorities signed between Hungary and Ukraine in May 1991, which was then legally binding as part of the subsequent Basic Treaty signed in December 1991.

In the Declaration on the rights of national minorities the Parties declared that—in accordance with the Charter of the United Nations, the human rights documents of the UN, the Helsinki Final Act and other documents from the Organization for Security and Co-operation in Europe—they are committed to grant *inter alia* the freedom of the choice of nationality,¹⁸ the legal protection of one’s belonging to a minority, the right of participation in public life, language rights and so forth. Article 16 stated: “To monitor implementation of the principles laid down in the present Declaration, as well as fulfilment of the commitments undertaken, the Parties are to express their readiness to set up a Joint Commission composed of representatives from the two Parties’ state bodies and national minorities. The mandate and set-up of the Joint Commission will be defined in a separate inter-governmental Protocol.”

16 Original text: Декларація про принципи співробітництва між Українською РСР та Угорською Республікою по забезпеченню прав національних меншостей. - Протокол до Декларації про принципи співробітництва між Українською Радянською Соціалістичною Республікою та Угорською Республікою по забезпеченню прав національних меншостей. Available from: https://zakon.rada.gov.ua/laws/show/348_322.

17 Szalai Anikó: “Nemzetközi szerződések [International agreements],” in *Internetes Jogtudományi Enciklopédia [Internet Encyclopedia of Jurisprudence]* (2018). Available from: <http://ijoten.hu/szocikk/nemzetkozi-szerzodesek>.

18 In the meaning of ethnic affiliation.

The Protocol defined the composition and the principles of operation of the Ukrainian–Hungarian Joint Commission on National Minorities. Both parties delegate to the commission a co-chair, a secretary, and members who are the representatives of ministries. Additionally, the Ukrainian side appoints a representative of Transcarpathian Hungarians and of the administration of Transcarpathia oblast, while the Hungarian side delegates a representative of the municipality of Szabolcs-Szatmár-Bereg County and of the Ukrainians living in Hungary.

Hungarians in Ukraine

With an area of 12,800 square kilometers, Transcarpathia (Zakarpatska Oblast) is the westernmost region of Ukraine (the country’s total area is more than 600,000 square kilometers). Transcarpathia became a separate administrative region in the 20th century, and as such it was a part of Czechoslovakia in the interwar period, of the Kingdom of Hungary for a subsequent short interval, of the Soviet Union and the Ukrainian SSR after World War II, and of independent Ukraine since 1991. Just over 12 percent of Transcarpathia’s 1.25 million inhabitants are ethnic Hungarians, who number around 156,000 (almost 100 percent of Ukraine’s ethnic Hungarian population). More than 80 percent of Transcarpathia’s inhabitants speak Ukrainian as their native language, while Hungarian is the native language of 12.65 percent, Russian of 2.90 percent, and Romanian of 2.57 percent of the population. Each of the other linguistic minorities constitutes less than 1 percent of the population. The 2001 Ukrainian census—the only census since independence—registered a large decrease in the national population, and the same decrease was seen among almost all the country’s minorities. The size of the Hungarian-speaking population, however, remains intact, and demographers link this trend to the high birth rate among the Roma population.

Public discourse, media and political utterances often speak of 150,000 and sometimes 200,000 Hungarians in Transcarpathia. However, their actual number is estimated (based on the demographic survey “SUMMA 2017”) at not more than 130,000, including temporarily absent people (people mostly working abroad). Out of them the number of those who spend at least half of the year abroad is more than 10,000.¹⁹

A particular feature of Transcarpathia is the presence of an ethnic group that is not officially recognized in Ukraine: the Rusyns. In the most recent and the only Ukrainian census

19 Patrik Tátrai, József Molnár, Katalin Kovály, and Ágnes Eröss: “Changes in the number of Hungarians in Transcarpathia Based on the survey ‘SUMMA 2017,’” *Hungarian Journal of Minority Studies* 2 (2018): 103–135.

(2001), Rusyn was not even included in the list of selectable ethnic categories. Coming originally from the eastern side of the Carpathians, the Rusyns have been living in what is now Transcarpathia for centuries. In the Soviet Union of the post-WWII era, they were automatically recorded as ethnic Ukrainians. After independence, Ukraine retained this policy; it has not granted official recognition to the Rusyn ethnic group or to their language. Rather, it views the Rusyns as an ethnographic subgroup of the Ukrainian people and their language as a dialect of Ukrainian.

Representatives of Ukraine's minorities—including Hungarians, Poles and Romanians—foster close contacts with their kin-states. It is a fact that the Hungarian minority is far more “visible” in Ukraine than one might assume from their share in the country's population. The attitude of intellectuals in the Hungarian community—which is based on the strong representation of political interests and an enhanced role in public life—gives rise to many conflicts even within the community. Even so, a general and constant feature is a desire to balance national (ethnic) identity with citizenship loyalty.

Ukrainians in Hungary

The emergence of the Ukrainian minority in Hungary can be de jure linked to the period of regime change. Until the end of the World War II, the Eastern Slavic population living in Hungary at any time was called Ruthenians (Rusyns). During the Communist era they were not counted at all, statistically they were counted as Slovaks, and in historical and ethnographic research they became Carpatho-Ukrainians.

However, in the late 1980s, there was a radical turn in the Hungarian state policies towards ethnic minorities. Concern about the situation of Hungarians living in the neighboring countries became part of public agendas. In Communist era four minorities—German, Rumanian, Slovak and South Slavic²⁰—were officially recognized in Hungary. The “new minorities” (Greeks, Bulgarians, Armenians, Poles, and Ukrainians-Rusyns as one national-ity) appeared in the columns “native languages” at the 1990 population census.²¹

Act II of 1989 on the Rights of Association played a significant role in the transformation process of ethnic civil society organizations. It made it possible for ethnic communities not recognized earlier to appear and to claim interests of their own. Among the beneficiaries

20 It comprised of Serbs, Croats and Slovenes.

21 Róbert Györi Szabó, *Kisebbségpolitikai rendszerváltás Magyarországon: a Nemzeti és Etnikai Kisebbségi Kollégium és Titkárság történetének tükrében (1989–1990)*[*Regime change in minority policy of Hungary: in the light of the history of the National and Ethnic Minority College and Secretariat (1989–1990)*] (Budapest: Osiris, 1998), 50.

were those groups that had not had any organizational past, such as the Armenians, Rusyns and Ukrainians.²² On 30 January 1991, the common alliance of nationalities, the Round Table for National and Ethnic Minorities was established, which had the right to participate in preparing the law on nationalities. The organizations of thirteen nationalities, namely Bulgarians, Roma, Greeks, Croats, Poles, Germans, Armenians, Rumanians, Rusyns, Serbs, Slovaks, Slovenes and Jews, took part in the activities of the Round Table.²³

Prime Minister József Antall had a meeting with the leaders of nationality organizations on 24 April 1991 and then issued a statement, in which he connected the question of nationalities among other issues with the state of foreign relations: “The solution of the problems of national and ethnic minorities in Hungary, laid on a normative and institutional basis and the elaboration of guarantees, are the preconditions of our Europeanness. The method and content of the solution will have to influence our domestic politics and foreign ties.”²⁴

Act LXXVII of 1993 on the Rights of National and Ethnic Minorities *expressis verbis* qualified the 13 national or ethnic minorities as “autochthonous national or ethnic groups of Hungary” (Chapter 9, Article 61) presuming that these groups a priori meet the demands of the normative definition.²⁵ These groups are: “Bulgarian, Gypsy, Greek, Croatian, Polish, German, Armenian, Romanian, Rusyn, Serbian, Slovak, Slovenian and Ukrainian.” Nationalities willing to join the list later were obliged to meet the above demands prior to the official recognition.²⁶ The situation has not changed, and the list still comprises of the same 13 nationalities repeatedly acknowledged by Act XXVI of 2014 on the Rights of Nationalities.

In course of the drafting of the 1993 minorities law it was accepted—under quite specific circumstances—that both “Rusyns” and “Ukrainians” should be recognized as autochthonous groups. Out of several drafts that the Ministry of the Interior presented in January 1992 was one in which the two national groups were listed as a single “Ukrainian (Rusyn)” entity among minorities which had kin-states. In the revised draft discussed at the government

22 Balázs Dobos, *A kisebbségek joga. Kisebbségi törvénykezés Magyarországon (1988–2006)* [*The Rights of minorities. Minority legislation in Hungary (1988–2006)*] (Budapest: Argumentum, 2011), 113.

23 Györi Szabó, *Kisebbségpolitikai rendszerváltás* [*Regime change in minority policy*], 123.

24 Text see at: *Európai Útas* no. 2 (1991): 45.

25 “(2) For the purposes of the present Act a national or ethnic minority (hereinafter ‘minority’) is any ethnic group with a history of at least one century of living in the Republic of Hungary, which represents a numerical minority among the citizens of the state, the members of which are Hungarian citizens, and are distinguished from the rest of the citizens by their own language, culture and traditions, and at the same time demonstrate a sense of belonging together, which is aimed at the preservation of all these, and the expression and protection of the interests of their communities, which have been formed in the course of history.” Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, Chapter 1, Article 1.

26 Gáspár Bíró, *Az identitásválasztás szabadsága* [*Freedom of choice of identity*] (Budapest: Osiris – Századvég, 1995), 255.

meeting on 6 February 1992, the single “Rusyn (Ukrainian)” ethnic group was explicitly indicated. In May 1992, the delegation of the government and the representatives of the Round Table agreed that the two ethnic groups should be separate national minorities.²⁷ After the adoption of the law, the representatives of the Rusyns and the Ukrainians actually entered into a *gentleman’s agreement*, accepting a non-interference policy, which guaranteed peaceful coexistence.

The background of the recognition of Rusyns and Ukrainians as two separate nationalities can be partly understood by the contribution of the representative of the Hungarian Ministry of Culture and Public Education, who said the following at the session of the subcommittee preparing the minority law on 18 November 1992: “During each and every Ukrainian–Hungarian discussion [between the official representatives of Hungary and Ukraine] taking place in a very pleasant atmosphere, we should carefully avoid using the terms of Rusyn, [and] Ukrainian, as our colleges from Kyiv as well as those from Uzhhorod will be very angry hearing the term Rusyn [...] Both of the terms Rusyn and Ukrainian should be included here. What happens in case Ukraine protests against the law saying that the term Ukrainian is missing? The more so as there are [in Hungary] two minority organizations, the one is Ukrainian, the other is Rusyn.”²⁸

The question of Ukrainians in Hungary—with consideration to the fact that Rusyns are not recognized as independent ethnic minority in Ukraine—was included in the Hungarian–Ukrainian Basic Treaty. In its first draft, there was no proviso concerning the inviolability of the borders, however, it was included in the second draft. It was done in conjunction with the protection of the interests of the Hungarian minority in Transcarpathia,²⁹ and on the basis of reciprocity in the protection of the rights of Ukrainians in Hungary. Respectively, the representatives of both minorities were delegated into the Ukrainian–Hungarian Joint Commission on National Minorities. According to the 1990 census in Hungary, the number of Rusyns and Ukrainians speaking Ukrainian as their native language was 674 altogether, while their number increased up to 7,400 by the 2001 census. Ukrainians in Hungary can be characterized as a territorially dispersed community.³⁰

27 Balázs Dobos, “Ruszin nemzetiségi önkormányzatiság a rendszerváltás utáni Magyarországon [Rusyn self-government in Hungary after the change of regime],” in “*Ruszin voltam, vagyok, leszek...*” *Népismereti olvasókönyv* [“I was, am and will remain Rusyn...” *Chrestomathy*], eds. Csilla Fedinec, and István Csernicskó (Budapest: Charta XXI Egyesület – Gondolat Kiadó, 2019), 215–216; Balázs Dobos, “Ukrán kisebbségi önkormányzatiság Magyarországon [Ukrainian minority self-government in Hungary],” in “*Kijevi csirke*”: *(Geo)politika a mai Ukrajnában* [“*Chicken Kiev speech*”: *(Geo)politics in contemporary Ukraine*], ed. Csilla Fedinec (Budapest: Kalligram, Budapest, 2019), 246–247.

28 Library of the Hungarian National Assembly. Committee on Human Rights, Minorities and Religion, Protocol of 18 November 1992, pp. 15–16.

29 *Magyar Külpolitikai Évkönyv [Hungarian Foreign Policy Yearbook]* (Budapest, 1993), 205–206.

30 Dobos, “Ukrán kisebbségi önkormányzatiság Magyarországon [Ukrainian minority self-government in Hungary],” 240.

Practice of the Ukrainian–Hungarian Joint Commission on National Minorities

The sessions of the Ukrainian–Hungarian Joint Commission on National Minorities were held alternately in the two countries. The protocols were made in two languages and signed by the co-chairs. The protocols reported on what had happened concerning the implementation of earlier recommendations and put forward new recommendations.

The protocols are structured into chapters which contain numbered articles. A separate chapter is always dedicated to the issue of education. The text of the protocols became longer and longer with time because of the increasing number of recommendations which had not been realized and were repeatedly included.³¹ The text of the protocols was never officially published by either party, except for some rare unofficial cases. The copies deposited in the offices are hardly accessible or not available at all. They may be found among the private documents of individual commission members. The collection of the protocols was thus very difficult, and the Hungarian-language texts and their detailed analysis were published in 2022 in a volume.³²

Between 1992 and 2011, altogether 15 sessions were held: 11 before 2001, then they became less frequent, and in the following ten years only four sessions took place. The last, XVth session was held in Budapest in December 2011, but the parties left the discussion table without signing the protocols. Out of the 15 sessions, seven were held in Budapest, one in Nyíregyháza, three times in Kyiv and four times in Uzhhorod.

The Hungarian members of the Joint Commission are appointed and dismissed by name. Up until 2008, the appointments and dismissals were published as Government Decisions, and later on in Prime Ministerial Decrees. The recommendations of the protocols were recorded in Government Decisions containing the acknowledgement of the approval of the recommendations and defining the ministries and offices responsible for their fulfilment. The full text of the recommendations included in the protocol was added as an appendix. From 2008, the appendix was left out from the government decisions, and the activities of the joint commissions (of Hungary and the neighbouring countries) have not been recorded in separate Prime Ministerial decrees. There is only one document about all the actually operating commissions in relation to neighbouring countries remaining. However, since the suspension of the operation of the Joint Commission, several Prime Ministerial decrees have been issued concerning the change of its members.

31 МІХАЙЛО ТОВТ: “Змішана Українсько-Угорська комісія з питань забезпечення прав національних меншин – складова міждержавних стосунків” [*Ukrainian–Hungarian Joint Commission on National Minorities – a component of bilateral relations*], Available from: <http://centerkultur.xtreemhost.com/archives/490?i=1>.

32 Fedinec and Tóth, *Romantikus jog* [*Romantic law*].

The composition of the Ukrainian side of the Joint Commission is also approved by Government Decisions. It can be changed upon the recommendation of the chairman, preceded by a conciliation procedure. From the outset, the chairman's post was bound to governmental position, and not to a person. As for the members of the Joint Commission, governmental decisions listed the institutions (ministries) authorized to delegate representatives, and in the 1990s some members were appointed by name. Some members of the Joint Commission were appointed by the government, others were agreed upon; in cases when the delegating organization was not authorized, they could only make proposals, for example for the person of the current ambassador. Although the Joint Commission did not have any sessions after 2011, government decisions on its composition were issued since then, and the representative of the Security Service of Ukraine appeared among the members. The Ukrainian side also issued Governmental Decisions on the fulfilment of recommendations. The decisions on the Commission's composition are deposited in the Legislation of Ukraine, while the actual tasks are circulated in the responsible offices.

The preambles of the protocols referred to international conventions and changes occurring in the legal basis on minority rights in both state parties. The general part listed and described cross-border connections, infrastructural questions, the return of the historical Hungarian names of settlements in Transcarpathia, the establishment of social institutions, mutual assistance in case of natural disasters, questions of the territorial separation of minorities, and other issues. The chapter on education defined the recommendations and granted personal, methodological, technical and financial conditions of teaching the native language and teaching in the native language. The chapter on culture discussed the appraisal and the preservation of the memory of outstanding historical personalities and events, the establishment and maintenance of cultural institutions, the availability of written and electronic press in the native language, archival backup and the common research of the historical "white spots". Many of the recommendations concerning cultural affairs were fulfilled, except for the last one, the cooperation of historians; the proposals concerning the contacts between scientific organizations were ignored.

Certainly, the most successful collaborative endeavour was the joint action taken at the turn of the millennium when the Tisza [Tysa] River flooded, resulting in serious consequences. In the words of Zsolt Németh, Political State Secretary at the Ministry of Foreign Affairs of Hungary, "It was good to see spontaneous examples of national solidarity both in Hungary and among Hungarians elsewhere in the world; it was only at the time of the Romanian revolution in 1989 that we experienced something similar." In connection with the Tisza River floods of 1998 and 2001, which seriously affected the mostly Hungarian-populated areas on Ukraine's western border, towns in the Transcarpathian region were included among the venues of high-level bilateral discussions from 2001 onwards, and

such meetings were linked with events of symbolic importance to the Hungarians of the Transcarpathian region.³³

It is worth mentioning that the XVth Session of the Joint Commission, held in Budapest on 19 December 2011, ended with an unsigned protocol, and this was an unprecedented development. The two sides declined to sign the draft protocol after both of them made proposals and all the proposals were rejected by the other side.

The Ukrainian side insisted that the protocol should contain the following: the parties will consult without delay “on the situation that has arisen in Ukraine in consequence of the implementation of the Hungarian citizenship law amended in 2010.” The new citizenship law of Hungary (Act XLIV of 2010) allows ethnic Hungarians—including the Hungarians of Transcarpathia—to apply for simplified naturalisation, while dual citizenship is not legally recognized by Ukraine.

In turn, the Hungarian side urged the inclusion of a proposal in the protocol made by the Transcarpathia regarding the establishment of an Hungarian autonomous district alongside the Tisza River. The first protocols continued to refer to “the right of the Hungarian minority living in Ukraine and the Ukrainian minority living in the Republic of Hungary to national and cultural autonomy” and made reference to Recommendation 1201 (1993) of the Parliamentary Assembly of the Council of Europe, which was a draft Additional Protocol to the European Convention on Human Rights on the Protection of Minorities, which referred to local or autonomous forms of administration appropriate to historical and territorial particularities. The Committee of Ministers did not, however, open the document for signature as a treaty, but instructed the drafting of an additional protocol on cultural law.³⁴ This was Recommendation 1201 (1993), Article 11 of which states that “In the regions where they are in a majority the persons belonging to a national minority shall have the right to have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation and in accordance with the domestic legislation of the state.”³⁵

In the Xth protocol of Joint Committee held on 3–4 April 2001 first mentioned territorial autonomy instead of national-cultural autonomy: “The Hungarian parties requests that the Ukrainian parties support the proposal of the Transcarpathian Hungarian Cultural

33 Csilla Fedinec, “Ukraine’s Place in Europe and Two Decades of Hungarian–Ukrainian Relations,” *Foreign Policy Review* 9, no. 1 (2013): 79.

34 Csilla Fedinec, *Kárpátalja: örökség és társadalom [Transcarpathia: heritage and society]* (Budapest, Typotex Kiadó, 2022), 149–150.

35 Recommendation 1201 (1993). Additional protocol on the rights of minorities to the European Convention on Human Rights. Available from: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=15235>.

Association of for the establishment of a [Hungarian autonomous] district on the Tisza side.” It also appeared at the next XIth protocol of 21–22 December 2001 as follows: “The Ukrainian side shall examine and support, on the basis of the initiative of the Transcarpathian Hungarian Cultural Association, the proposal for the establishment of an [Hungarian autonomous] district alongside the Tisza River.”³⁶

The unsigned protocol also concerned the memorial monument of the Hungarian Conquest in Verecke [Veretsky] Pass, which was inaugurated in 2008—after more than ten years of planning and building—and preceded by popular excitement and nationalist attacks.³⁷ Since the end of the 1980s, numerous commemorative monuments and memorials have been erected throughout Transcarpathia, and they serve as reminders of the Hungarian community’s place in the historical memory of the region. Hungary made a gesture in this matter, when in 2009 the Varjúlapos Memorial was inaugurated at Nyírtelek: the commemorates, among others, were the imprisoned soldiers of the Carpathian Sich, a paramilitary organization in Carpatho-Ukraine in 1938–1939.³⁸

Neither state party officially suspended the Joint Commission’s activity after the Budapest session of 2011. The government report on the situation of minorities living in Hungary (in the period of February 2011 – February 2013) issued in October 2013 stated: “The Parties agreed upon the continuation of work. [...] The planned consultative meeting of the secretaries, who are responsible for the practical preparation of the sessions, took place in spring 2013, where the continuation of the sessions of the Joint Commission was prepared.”³⁹

However, the consultation of the secretaries was not followed by the Joint Commission’s next session, and only the co-chairs had a meeting.

Responding to a query concerning the Joint Commission’s activity submitted to the Hungarian National Assembly, Deputy Prime Minister Zsolt Semjén gave a written answer dated 25 November 2014, in which he stated: “On the XVth session on 19 December 2011

36 Fedinec and Tóth, *Romantikus jog [Romantic law]*, 157., 170.

37 Cf. Géza Gulácsi, “A kárpátaljai magyarság jogi helyzete és autonóm törekvései [The legal status and autonomous aspirations of the Hungarians of Transcarpathia],” in István Csernicsekó et al., *Útközben. Tanulmányok a kárpátaljai magyarságról [On the way. Studies on the Hungarians of Transcarpathia]* (Ungvár: KMKSZ, 1998), 13–44.; Юрій Остапчук, and Іванна Скиба, “Суспільно-політичний та культурний розвиток угорців Закарпаття (1991–2008 рр.) [Socio-political and cultural development of the Hungarians of Transcarpathia (1991–2008)],” *Політичні науки та методика викладання соціально-політичних дисциплін. Збірник наукових праць Національного педагогічного університету ім. М.П. Драгоманова 2* (2009): 64–65.

38 Csilla Fedinec, “Ukraine’s Place in Europe,” 91.

39 Government of Hungary. Report on the situation of nationalities living in Hungary no. J/12618. (February 2011 – February 2013). Rapporteur: Zoltán Balog, Minister of Human Resources. Budapest, October 2013. P. 53.

the two parties managed to agree upon the majority of questions, but no protocol was signed. At the December meeting of the Joint Commission, the Hungarian party stressed the importance of a [national] electoral district in the area where Hungarians were living in majority⁴⁰ and further consultation on the [Hungarian autonomous] district alongside the Tisza River. Ukraine also raised questions that were not supported by the Hungarian party. Concerning the above questions, Hungary offered Ukraine to record the ideas of the two parties separately, in the appendix or preamble of the protocol. This was strictly refused by Ukraine, but in the session the parties agreed that they would discuss the open questions at bilateral meetings. The meeting of the co-chairs took place in March 2013. After that, the Hungarian party sent an updated draft, but up to this point no answer has arrived.⁴¹

The mentioned meeting took place in Budapest, and Deputy State Secretary for Hungarian Communities Abroad Zsuzsanna Répás had a meeting with the Ukrainian co-chair of the Commission, First Deputy Minister of Culture of Ukraine Tymofiy Kohan in her office.⁴²

Next time, the current co-chairs, First Deputy Minister of Culture of Ukraine Svitlana Fomenko and Ministerial Commissioner for Hungary's Neighbourhood Policy Ferenc Kalmár, met in Kyiv in April 2017. According to the official Ukrainian report, the fact that the dialog could be continued was due to the persistent work of the Hungarian Embassy in Kyiv. The parties mutually expressed their hope in starting a constructive dialog.⁴³

In autumn 2018, Hungarian Minister of Foreign Affairs and Trade Péter Szijjártó proposed to Ukraine a Pact on Minority Protection.⁴⁴ Zsolt Németh, the Chairman of

40 Such electoral district ("Hungarian constituency") would make the election of an ethnic Hungarian candidate possible. There were two electoral laws in Ukraine that included the possibility of creating a national electoral district. Law No. 541/97-VR of 1997, Chapter II, Article 7, Paragraph 2 and Law No. 4064-VI of 2011, Chapter III, Article 18, Paragraph 2, Subparagraph 3: the territorial distribution of the nationalities living in majority shall be taken into account when establishing electoral districts. The Central Election Commission of Ukraine has in all cases rejected the requests to comply with the law. Fedinec, *Kárpátalja: örökség és társadalom [Transcarpathia: heritage and society]*, 129.

41 Answer of Dr. Zsolt Semjén, Deputy Prime Minister to Mr. Attila Mesterházy, Member of Hungarian National Assembly. 25 November 2014. Prime Minister's Office, no. I-2/ME/355/2/2014.

42 "Társelnöki egyeztetés. Magyar–ukrán kisebbségi vegyes bizottság [Co-chair meeting. Joint Ukrainian–Hungarian Commission on National Minorities]" *Kárpátalja*, 05.04.2013. Available from: <https://karpataljalap.net/2013/04/05/tarselnoki-egyeztetes>.

43 У Міністерстві культури обговорили основні напрямки співпраці змішаної українсько-угорської комісії з питань забезпечення прав національних меншин [In the Ministry of Culture discussed the main areas of cooperation of the Joint Ukrainian–Hungarian Commission on National Minorities], 13.04.2017. Available from: http://mincult.kmu.gov.ua/control/publish/article?art_id=245226455.

44 "Szijjártó: Hungary Proposes to Ukraine Pact on Minority Protection," *Hungary Today*, 24.10.2018. Available from: <https://hungarytoday.hu/szijjarto-hungary-proposes-to-ukraine-pact-on-minority-protection/>.

the Foreign Affairs Committee of the Hungarian National Assembly explained that: „At present, we have the [Hungarian–Ukrainian] Basic Treaty and the [Hungarian–Ukrainian] Declaration on the rights of national minorities. The Hungarian party proposed the renewal and update of the Declaration.”⁴⁵ However, there was no official reaction to this initiation.

The co-chairs, Deputy Minister of Culture and Information Policy of Ukraine Svitlana Fomenko and Ministerial Commissioner for Hungary’s Neighbourhood Policy Ferenc Kalmár, met next in Budapest in 2020 but the work of the commission was not resumed in the normal framework.⁴⁶

Summary

The political changes of 1989–1990 radically transformed the political map of Europe. Several bilateral friendship and good neighbour agreements were signed, and bilateral working relations concerning minority rights were established too. Bilateral agreements often refer to multilateral legal instruments on minority protection, but relations are mostly supervised, controlled and discussed at the bilateral level. In 1993, the French Prime Minister Edouard Balladur outlined in his foreign policy program a unified European security cooperation project which—in his hopes—could preclude the sharpening conflicts in Central-Eastern European region. This led to the signature of the Pact on Stability in Europe. However, the initiative came late, as there already were bilateral agreements existing or in the process of drafting. After the breakdown of the socialist block, ethnic and national minorities became politically more and more salient in Central and Eastern Europe. The relations of minorities with kin-states always played a decisive role. The very existence of minorities was considered more or less as a risk in security politics. The relations between politically active minorities and governments were aggravated by a politically sensitive mutual distrust. During the decades following the communist regime change, Hungary had the least feud with Ukraine compared to the other neighbouring countries. Good Hungarian–Ukrainian relations were achieved largely due to

45 Enikő Váradi, “A szerzett jogokból nem lehet elvenni! Kisebbségvédelem az Európa Tanácsban – interjú Németh Zsolttal [Acquired rights cannot be revoked! Protection of minority rights in the Council of Europe – interview with Zsolt Németh],” *Kárpátalja*, 08.11.2018. Available from: <https://karpataljalap.net/2018/11/08/szerzett-jogokbol-nem-lehet-elvenni>.

46 “Co-chairs of Ukrainian-Hungarian Commission on National Minorities reaffirm commitment to cooperation,” *Ukrinform*, 14.07.2020. Available from: <https://www.ukrinform.net/rubric-politics/3062886-cochairs-of-ukrainianhungarian-commission-on-national-minorities-reaffirm-commitment-to-cooperation.html>.

the atmosphere of trust between the two countries, especially because of the Ukrainian contribution. The Ukrainian–Hungarian Joint Commission on National Minorities based on the Declaration on the rights of national minorities, which is an independent legal document within the Ukrainian legal system and an annex to the basic treaty within the Hungarian legislation, was of central importance in the discussions of minority rights on both sides. The 15th session of the Joint Commission, held in Budapest on 19 December 2011, ended without a protocol. This had never happened before in the history of the Joint Commission. Although such protocols are generally symbolic in nature, nevertheless the Joint Commission has been an important forum for the discussion of matters concerning minorities. The activity of the Joint Commission actually got to an end in 2011, but the state parties are continued striving to revive it. In spite of the problems between the two countries, there is still a legal framework for bilateral minority protection, and its essential element is the 1991 Declaration on the rights of national minorities.

