

RESUME

PROTECTION OF MINORITIES BY THEIR KIN-STATES IN THE EU – THE CASE OF HUNGARY

PETER SMUK, PHD
FACULTY OF LAW, SZÉCHENYI ISTVÁN UNIVERSITY
GYŐR, HUNGARY

REVIEWER:
PROF. ISTVÁN KUKORELLI

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The paper studies the case of the protection of the minority-rights by their kin-states. This issue can be discussed from the viewpoint of the non-discrimination principle of the EU, but the new Schengen borders and the unified visa-regime are also in question.

The Parliament of Hungary, carrying out Article 6 par. (3) of the Constitution - *“The Republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its borders and shall promote and foster their relations with Hungary.”* - and also responding to the inquiries of the Hungarian organizations from the neighbouring countries – adopted the Act on „Hungarians Living in Neighbouring Countries” only in 2001, at the time of rightist Fidesz-cabinet.

This law, scheduled to step into force on 1 January 2002, provided several benefits and assistance basically for the “persons declaring themselves to be of Hungarian nationality who are not Hungarian citizens and who have their residence in the Republic of Croatia, the Federal Republic of Yugoslavia, Romania, the Republic of Slovenia, the Slovak Republic or the Ukraine” (Article 1). In some aspects, the act shall be applied to spouses and children of the mentioned persons. Person falling within the scope of this Act were entitled to benefits and assistance on the territory of Hungary, as well as in the country of their residence (Article

2). The Act provided mainly the following benefits and assistance: *Culture, science; Social Security Provisions and Health Care; Travel benefits; Education, student benefits, training for teachers; Employment; Assistance of Organizations operating abroad.*

The Republic of Slovakia and Romania – where the biggest communities of Hungarian minorities live – protested against the adoption of the Status Law, arguing with the following reasons:

Extraterritoriality: The most frequently used argument against the Status Law is that it contains extraterritorial elements, i.e. that the effects of the law extend to another state's territory in ways that its sovereignty. *Discrimination:* The law is discriminatory inasmuch as it makes a distinction among citizens of the Neighbouring States, in this case on an ethnic basis. *Objection to Benefits Going beyond Educational and Cultural Support:* the Status Law provided benefits for example on the field of rural tourism and employment.

The Romanian delegation to the Council of Europe in June 2001 started to collect signatures in favor of the Romanian initiative protesting against the Hungarian Status Law. The Council finally decided that it will give a mandate to the Venice Commission study the case.

The Commission in its Report stated that the responsibility for minority protection lies primarily with the home-States. The Commission notes that kin-States also play a role in the protection and preservation of their kin-minorities, aiming at ensuring that their genuine linguistic and cultural links remain strong. The report included some particular observations applicable to the Hungarian status law.

The Hungarian minorities had to see in 2003 that the national means of minority protection are rather limited, because the Hungarian government diverged from the Status Law in order to comply with the EU-expectations just before the EU accession. The amendments not supported by the Hungarian Standing Conference – an institution presenting the Hungarian main parties, government, and the organizations of the Hungarians living abroad – were justified by the arguments and statements of the Venice Committee. It caused frustration widely, and a bitter experience, that the Hungarian government was unable to find the right solution for protecting the kin-minorities by means compatible with the international law and the EU-requirements.

Contact - e-mail:

smuk@sze.hu