

CORVINUS UNIVERSITY OF BUDAPEST

# THE POLITICAL PARTICIPATION AND REPRESENTATION OF NATIONAL MINORITIES

The work of intergovernmental committees on national  
minorities between Hungary and its neighbors

DOCTORAL DISSERTATION

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Associate Professor

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Budapest, 2021

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## Abbreviations

<b>AC</b>	Advisory Committee on the Framework Convention for the Protection of National Minorities
<b>CE</b>	Central Europe
<b>CEE</b>	Central and Eastern Europe
<b>CoE</b>	Council of Europe
<b>CSCE</b>	Conference on Security and Co-operation in Europe
<b>ECHR</b>	European Convention on Human Rights
<b>ECRML</b>	European Charter for Regional or Minority Languages
<b>EU</b>	European Union
<b>FCNM</b>	Framework Convention for the Protection of National Minorities
<b>HCNM</b>	High Commissioner on National Minorities
<b>HMDK/DUHC</b>	Horvátországi Magyarok Demokratikus Közössége / Democratic Union of Hungarians in Croatia
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>KMKSZ/THCA</b>	Kárpátaljai Magyar Kulturális Szövetség / Transcarpathian Hungarian Cultural Association
<b>MKP/PHC</b>	Magyar Közösség Pártja / Party of the Hungarian Community
<b>MMÖNK/HSNCP</b>	Muravidéki Magyar Önkormányzati Nemzeti Közösség / Hungarian Self-governing National Community of Prekmurje/Muravidék
<b>MNT/HNC</b>	Magyar Nemzeti Tanács / Hungarian National Council
<b>NATO</b>	North Atlantic Treaty Organization
<b>NGO</b>	non-governmental organization
<b>ODIHR</b>	Office for Democratic Institutions and Human Rights
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>RMDSZ/DUHR</b>	Romániai Magyar Demokrata Szövetség / Democratic Union of Hungarians in Romania
<b>TEU</b>	Treaty on European Union
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UMDSZ/DAHU</b>	Ukrajnai Magyar Demokrata Szövetség / Democratic Alliance of Hungarians in Ukraine



## Acknowledgements

This work could have not been prepared without the enormous help and support of many people, to whom I am extremely thankful. First of all, thank you to my family, and especially to my mother, who encouraged me to start my doctoral studies, as well as encouraged me throughout the whole research process to stick to my goals and persist during more difficult times in the process.

I am also very grateful to my supervisor, Professor Balázs Vizi, who provided me with great professional and practical guidance throughout the research. Through our shared brainstorming about this work, as well as our work together on other projects, I gained a lot of experience and knowledge about different issues. Without his professional advice and personal support, I would have not been able to proceed easily and finish this work.

I would like to also thank the professors at the International Relations Multidisciplinary Doctoral School of Corvinus University of Budapest, especially Professor Erzsébet Kardos Kaponyi, for providing great help concerning technical and practical issues, and for always being available and quick to support me, as well as encouraging me to write this thesis and other publications on the same issue. I would like to also thank my supervisor during the initial years of my doctoral studies, Professor Tamás Molnár, for helping create the proper and professional foundations for the whole research process.

It would have been difficult and taken much longer to prepare this work without the kind help of my boss Mr. Ferenc Kalmár, the ministerial commissioner responsible for developing the neighborhood policy of Hungary at the Ministry of Foreign Affairs and Trade. His professional guidance concerning the work of bilateral committees on national minorities between Hungary and its neighbors, and the assistance he gave me in relation to finishing my doctoral studies, as well as the present thesis, was one of the most important contributions I benefitted from throughout this period.

I should also mention my interviewees – the representatives of national minorities in Hungary and in neighboring countries who participate(d) in the work of the bilateral committees examined here, and in the interviews presented in this research. Their ideas, opinions, and experiences, as well as their personal openness and kindness, made the research process more enjoyable and helped me learn a lot: to them, I cannot be thankful enough.

Last, but not least, I am very grateful for the useful and professional comments and suggestions of my draft thesis opponents, János Fiala-Butora and Zoltán Kántor, which were of great help in improving my work during the last phase of its preparation. In addition, special thank goes to Simon Milton who took the hard work of proofreading my text.



## **Chapter 1: INTRODUCTION**

### **1.1. The relevance of the topic**

The issue of national minorities and respect for minority rights, in general, is a delicate topic on an international as well as a European level. The problematic of national minorities involves numerous considerations and background factors that should be taken into account when analyzing any issue connected to the former. States follow different approaches in their policies towards national minorities, and differing views can be observed at the level of individuals and minority experts as well.

Regardless of the attitudes of actors towards national minorities, it can generally be stated that the protection of minority rights is of crucial importance. This is first due to the relatively large number of the former: in the European Union, for instance, one person in every seven Europeans belongs to an ethnic minority or speaks a regional or minority language; and in addition to the 28 official languages of the European Union, there are more than 60 regional and minority languages in Europe, spoken by 40 million individuals.<sup>1</sup> Second, minorities of any kind are among the most vulnerable groups in society, often being in a disadvantageous situation due to characteristics that differ from those of the majority. Although individuals belonging to minority groups are entitled, as are any other persons, to respect for their human rights, there is an ongoing debate about to what extent human rights principles can effectively be “translated” to cover the special needs of minorities (Henrard, 2000; Åkermark, 1997).

It should also be noted that securing basic human rights for minorities does not unequivocally mean that these groups will enter into a situation comparable to that of the majority. Despite respect for general principles of equality and non-discrimination, minorities often cannot “reach” the same level of rights in society as members of the majority. Therefore, the situation and rights of minorities should be approached from a different angle. In order for the rights and position of minorities to best approximate those of the majority, in most cases specific rights should be secured and different methods should be followed towards them. These specific measures should exceed more general human rights measures because, on the one hand, such rights are already and essentially “available” to everyone in society, irrespective of belonging to the

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<sup>1</sup> Official website of the Federal Union of European Nationalities; for more information see: <https://www.fuen.org/european-minorities/general/> (Last accessed: 6 November 2020).

majority or to a minority. On the other hand, the basic human rights framework often contains generalized provisions that neglect or fail to take into account the needs and special characteristics of minority groups. National minority rights are also closely connected to the expression of identity, and to the right to identity as a basic human right. In order to reach a situation comparable to that of the majority, minorities should be enabled to enjoy and preserve their own culture, identity, language, education, institutions, and associations, among other factors. In the absence of securing the aforementioned specific minority rights, the identity of national minorities cannot be maintained, preserved, and developed, resulting in their lack of assimilation into the given society, or their complete disappearance, in the long term.

The present research recognizes that minority rights belong to the broader category of human rights, as mentioned, and, in this manner, that their respect not only in democratic societies should be unequivocally sustained. However, it should be highlighted that minority rights have been recognized as a sub-category of human rights in international law after 1945, states often link minority claims to security issues. In the past, neither particular states nor international organizations have paid adequate attention to minority rights through drawing up a proper framework for maintaining respect for the rights of minorities. Recently, this approach has changed, although minorities and minority rights are typically fuzzy concepts. On an international level, the present regime of minority protection norms was elaborated after the collapse of communism in Europe in the 1990s. While it is true that respect for national minorities was highlighted in the frame of the League of Nations system after the First World War, its realization failed after a short period (Thornberry, 1991). Subsequently, after the Second World War, the international community aimed at strengthening the framework for and respect of human rights (for instance, through the Charter of the United Nations of 1945, the Universal Declaration of Human Rights of 1948, etc.), and the rights of minorities were progressively included into this human rights setting, albeit lacking the detailed regulation. The only legally binding reference to minority rights appeared under Art. 27 of the International Covenant on Civil and Political Rights (1966), and did not reflect the specific situation of minorities, while its individualistic approach and rather vague formulation did not clarify what state parties are really expected to do to protect minorities (Thornberry, 1991). In the 1990s, crucial changes occurred both politically and concerning the process of formulating significant documents for the protection of

national minorities. Furthermore, in Central Europe in the 1990s, some states included provisions about the protection of national minorities into their treaties on good neighborliness and cooperation, as well as into other bilateral treaties. However, this was not a new phenomenon in the 1990s, since during the 1940-1950s there were other examples of inter-state attempts at reconciliation, including the recognition of specific minority protection arrangements in bilateral relations (e.g. the Gruber-De Gasperi Agreement in 1946, and the joint German-Danish Declarations in 1955). However, for Central and Eastern European states the conclusion of bilateral treaties in the 1990s was an immense development, not only because the conclusion of treaties promoted a cooperative attitude between the states and relevant actors, but also because bilateral treaties offered an opportunity to formulate minority rights more concretely, taking into consideration the actual situation and needs of the aforementioned group (Bloed and Van Dijk, 1999), and initiating dialogue with them through a range of methods.

The focus of the thesis is on political participation and the representation of national minorities, as one of the most important requirements for exercising the rights of the latter is their “appearance” in the social structure of a given state. Democratic policy-making and democratic processes also presuppose securing the opportunity for all members and groups of society to be represented in the political life of states and to participate in the issues directly affecting them.

The characteristics and interpretation of political participation and the representation of national minorities can be explained in a similar way to human rights and the rights of national minorities, as highlighted above. In general, human rights should be secured for every person, irrespective of their minority or majority status, language, nationality, religion, or ethnicity (Lenox, 2018; Alfredsson, 1996). On the other hand, minority rights are often considered “additional rights” for minority groups besides general human rights, or as exceeding the general level of human rights (De Varennes, 1999). However, the author does not consider minority rights to be “additional” for minority groups, but rather regards them as a precondition for minority groups to reach the same position or enjoy the same level of rights as members of the majority society. This can often be realized only through different means – i.e. different set of rights that are already commonly implemented in connection with the majority. Considering the issue carefully, one can observe that minority rights, in reality, do not secure “additional benefits” for such groups. The issue of political representation and the participation of

national minorities is very similar to the above. Political representation and participation are, in democratic states, secured for all members of society and for all citizens of a given country, irrespective of their majority or minority status. This is considered to mean the general opportunity of political participation and representation, through which persons belonging to minorities have the opportunity to participate as *individuals* in the policy-making of a given state. However, minority *groups* in most cases are not able to represent their interests as *communities* equally (compared to the majority), or are not able to participate in decision-making effectively, mainly because these groups are significantly numerically smaller. For this reason, special means and procedures should be introduced to effectively involve minority groups in decision-making processes and in the political life of states. Putting it more simply, to increase the opportunity for minorities “to be heard”, special methods, processes, and opportunities have to be introduced in many cases so the former can influence decisions to some extent – mainly in relation to those issues that directly affect them (Ghai, 2001). Furthermore, persons belonging to national minorities are able to decide more effectively about the matters that concern them, as they have more insight and experience with crucial issues and problems related to their group(s). In most cases, decision-makers without a minority background often do not make adequate decisions without the involvement of the minority itself, or such decisions have detrimental effects on the mentioned group, since the former are not fully familiar with the internal operation, problems, and processes of the group itself (Hofmann, 2008).

For this reason, as mentioned, participation and political representation of national minorities is of crucial importance. The present research focuses on a particular form of minority participation and representation that is secured by the intergovernmental or bilateral joint committees on national minorities established between Hungary and its neighbors (Ukraine, Slovenia, Slovakia, Romania, Croatia, and Serbia) through the treaties on good neighborliness and cooperation, or by other bilateral treaties on national minorities. The practice of supporting bilateral joint committees on national minorities has not only been developed between the Central European states examined here, but in many countries across Europe (see Arp, 2008, pp. 38-44), although for the sake of a more comprehensive examination, the highlighted six committees have been selected. The thesis, after explaining the basic international and Central European legal and political background to the issue, deals with the operation and functioning of bilateral committees as a method and form through which the political participation and

representation of national minorities is exercised *in practice*. Bilateral committees on national minorities, in general, deal with the needs, problems, and objectives of particular national minorities, aiming to protect their rights in their country of residence, and in neighboring countries. They involve the representatives of national minorities into their work alongside governmental bodies and other members.

An examination of Central European states is highly rewarding because of the historical and political peculiarities of the region, not only for the sake of narrowing down the research topic. As is true of all European states, many national minority groups reside in all CE states, increasing the importance of taking into account their presence and rights. As a crucial aspect of minority rights, it should also be noted that minorities are able to enjoy a significant number of their rights *in community with* other members of the particular group. Political participation and the representation of a minority group on a collective level is one of the essential conditions for the preservation of group identity, thus political representation implies a strong “group rights” focus. As already briefly mentioned above, in many countries political participation and representation only refer to individual rights – the rights of all citizens associated, for instance, with elections –, neglecting the fact that minority groups should also be given the opportunity to be represented as a group, not solely as the “citizens” or “persons” of a given country. Bilateral committees on national minorities, however, secure the group-level representation of minorities by involving a number of representatives into their work.

## **1.2. Structure of the analysis**

The *main aim/issue* of the thesis is to examine the effectiveness of political participation and the representation of national minorities *in the work* of intergovernmental joint committees on national minorities between Hungary and its six neighboring countries based on the operation and work of bilateral committees, but primarily on the experience of the minority representatives who take part in such committees. The examination of the “effectiveness” of political participation and representation in the committees is realized through identifying the aspects of effectiveness that should be present during the operation of the mentioned bodies. The personal semi-structured interviews prepared with minority representatives (as presented in Chapter V of the thesis) serve as the focus of the research. I summarize and analyze the latter’s most important experiences concerning the effectiveness of committees based on aspects

connected to effectiveness. The reason for focusing on the effectiveness of minority participation and representation in these bodies is the fact that the realization of effective minority participation strongly determines the success of bilateral committees (and of any other bodies in general). Since bilateral joint committees have been established to focus on the rights of national minorities, one of the most crucial aspects when dealing with their effectiveness is the degree to which these representatives are involved into their work *in practice* and thus possess the power to influence the decisions that are made in these committees.

In order to be able to explore the above-mentioned main issue, other areas and topics have to be dealt with that explain, frame, underpin, and help understand the capital matter of the thesis. These other areas may be considered the *sub-questions* of the research, and mainly involve the following areas: an analysis of the “effective political participation and representation” of national minorities according to international law and history; a presentation of the historical and political Central European context of the issue, and; an introduction and analysis of the joint committees between Hungary and its six neighboring countries. The structure of the dissertation follows the outline presented below.

The present chapter provides a short foundation for and overview of the issue under analysis, focusing on the theoretical and methodological frameworks, as well as on the definition of crucial concepts in the analysis. In Chapter II, the general international setting of minority rights and the meaning and background of “*effective political participation*” is examined, based on a historical and literature overview. The same chapter also presents the general international human rights instruments for political participation and representation, and summarizes the main achievements related to the issue in the scheme of the United Nations, the Organization for Security and Cooperation in Europe, and the Council of Europe, in order to clarify the legal and political documents and framework that have been established over the past decades.

Subsequently, Chapter III reviews the historical and political situation of Central European national minorities in general, presenting views and interpretations of the relevant scientific literature as well. The chapter also analyzes the role and presence of national minorities in bilateral relations, focusing on the role of kin-states and home states, including international documents about the issue. Subsequently, it also deals with the practice and short history of the conclusion of bilateral treaties in Central and



Eastern Europe, emphasizing the issue of the political representation of national minority groups in the documents. Last but not least, the chapter examines the establishment of intergovernmental committees on national minorities based on a number of bilateral treaties, not focusing strictly on the Central and Eastern European-, but on a wider range of committees and treaties in order to summarize and explain the general characteristics of the aforementioned bodies. In summary, Chapter III lays down the foundation and background of the analysis in connection with national minorities, bilateral treaties, and intergovernmental minority committees.

In Chapter IV, the central issue of the thesis, the intergovernmental committees on national minorities between Hungary and its neighboring states (Ukraine, Slovenia, Slovakia, Romania, Croatia, and Serbia), are introduced, primarily by explaining their operation. Thereafter, the six intergovernmental committees are presented through focusing on their establishment, general operation, and establishing practices, as well as introducing the persons, parties, and organizations of minority representatives participating in given committees. Finally, Chapter V analyses the effectiveness of the work of committees based on interviews prepared with minority representatives participating on both sides of the six committees. Representatives of national minorities shared their views and experiences in connection with the effectiveness of minority representation through the committees, also touching upon a wider range of issues concerning the effectiveness of the work of committees generally. Recommendations are formulated to improve the future work and effectiveness of bilateral committees.

Furthermore, through the analysis of minority committees the thesis aims to present an identifiable regional model of national minority representation based on the practice of intergovernmental joint committees in Central Europe. In this regard, the *initial hypothesis* of the thesis is that joint committees on national minorities secure only limited opportunities for political participation and the representation of national minorities (only for a limited stratum of the given national minority, which is, in most cases, arbitrarily chosen). In this context – and responding to the *second hypothesis* – the effectiveness of bilateral committees on national minorities does not depend on the legal institution itself, as enshrined in the relevant treaties, but more significantly on the political relations and commitments as well as the reciprocity between two states.

### 1.3. Methodology and research design

The methodology applied in the examination is twofold. First, the thesis defines the most crucial aspects of the topic, as well as puts the background of effective participation into context. It also reviews the political situation of national minorities in the Central European region. Furthermore, the analysis of national minority protection in Central Europe and the bilateral aspects of political participation through the intergovernmental committees are presented for the sake of increasing understanding of the issue. Knowledge about the general operation and processes of joint committees in CE context, including other European joint committees on national minorities, is summarized. Since the inter-governmental joint committees are established by bilateral treaties to settle eventual disputes arising from and enhance co-operation related to the implementation of minority rights treaty provisions, it seems to be inevitable to overview the relevant international norms on minority rights. As it will be explained later in the thesis (Chapter 3) the examined bilateral treaties make regular references to international legal and political documents on minority rights. This means that the (effective) participation of minorities in bilateral committees can be examined in light of existing international standards on minority participation in public life and decision-making.

Besides that, as experience has shown these bilateral committees inevitably operate in a highly politicised environment. Thus, in order to offer a meaningful analysis of minority participation in these committees it is also to briefly overview the political-historical of the situation of minorities in these states. To realize the above aims, *content analysis* of the documents, and revoking a part of international and Hungarian scientific literature (e.g. Gál, 1999; Komac and Vizi, 2019; Fiala-Butora, 2017; Björn, 2008; Tóth, 2011; Vizi, 2020; Lantschner and Medda-Windischer, 2001; Palermo and Sabanadze, 2001) on the highlighted issues may be a useful tool. To examine the operation of bilateral committees, the establishing treaties, and in the case of the six broadly analyzed committees, the available protocols, are reviewed using content analysis as well.<sup>2</sup>

Second, the examination of the efficiency of minority representation and participation in the six bilateral committees is achieved through the implementation of *semi-structured*

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<sup>2</sup> As part of this research, the collected protocols have been published within the project OTKA-K120469 at <https://kisebbsegkutato.tk.hu/kormanynkozi-kisebbsegi-vegyesbizottsagok-jegyzokonnye>.

*personal interviews* with all the minority representatives taking part in the work of the six committees, since personal perception of minority representatives on effective participation is important as well. It should be highlighted that, throughout the years, the circle of minority representatives involved in the work of committees has altered; therefore, the interviews were conducted with the minority representatives who participated in the work of the last committee meeting associated with the specific relation. The semi-structured interviews included predefined questions concerning mainly the effectiveness of minority participation in the given committee, as well as the general operation of the bodies, although interviewees were given the opportunity to express their opinions freely about relevant or pertinent issues connected to the work of committees. The predefined topics for interviews covered the following areas: the definition of minority participation in committees; the degree of involvement of minority representatives in the committee work and their evaluation of the effectiveness of their participation and representation; the methods of their involvement or non-involvement in committee work; opportunities for influencing other members of the committee; recommendations for improving the effectiveness of committee work and of minority participation and representation; and the characterization of their political relations and ties with the kin-state and residing state in general, as well as in connection with committee work. The specific interview questions are presented in Chapter V of the thesis, along with the answers given by minority representatives, and the analysis of the issues that were raised.

It should also be noted that the selection of the research topic – the analysis of joint committees between Hungary and its six neighboring countries – occurred because the issue is only slightly and superficially examined in the scientific literature, and its comprehensive analysis is completely lacking. Some research has dealt with the work of particular European as well as Central European intergovernmental committees; however, a broad overview of the joint committees that exist between Hungary and its six neighbors, including the experiences of minority representatives, has not been provided so far.

The presumed conclusion of the dissertation is that although joint intergovernmental committees on national minorities between Hungary and its neighbors secure the opportunity for minority participation and representation for the aforementioned groups, these opportunities are limited in two ways. First, in connection with the selection of

minority representatives of the given national minority, as well as with their influence and the political power they enjoy in the given committee. Second, based on the functioning of joint committees it may be noted, in general, that cooperation between the two countries is effective only in the case when national minorities are in a comparable situation. In other words, between two particular states, reciprocity is the decisive factor concerning the protection of national minorities. This reciprocity, or respect for minority rights, is, first and foremost, influenced by the nature of political relations between the two countries, as well as being based on the policies kin-state follow towards their minorities who live in neighboring countries.

#### **1.4. Definition of key concepts**

This section provides definitions of the most crucial concepts used in the research to increase understanding of the examined issues, as well as to explain in what sense these concepts are used in the thesis.

***National (autochthonous) minority***: the term does not have a universally recognized definition, although the most commonly used interpretation is the one by *Francesco Capotorti*, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, who defines a national minority as “a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members - being nationals of the State - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.” (E/CN.4/Sub.2/384/Rev.1, para. 568).

*Recommendation 1201/1993* of the Council of Europe defines national minority similarly to the Capotorti definition, as “referring to a group of persons in a state who a) reside on the territory of that state and are citizens thereof; b) maintain longstanding, firm and lasting ties with that state; c) display distinctive ethnic, cultural, religious or linguistic characteristics; d) are sufficiently representative, although smaller in number than the rest of the population of that state or of a region of that state; e) are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language.” (*Council of Europe, Parliamentary Assembly, Recommendation 1201 (1993)*).

The term is used in the thesis, in conformity with the previous definitions, to refer to those citizens of a given state who are in a non-dominant, minority position, having

characteristics that are ethnically/nationally/linguistically/culturally distinct from that of the majority, and who maintain longstanding relations with that state, and are willing to preserve their distinct identities by sustaining their culture, language, and traditions.

***Kin-state:*** entities that border, or are close to, the region where their kin-groups reside, and are inhabited by people with whom kin-groups in other states share and maintain strong ethno-cultural and ethno-religious bonds (Sheffer, 2019).

Rogers Brubaker, instead of the term ‘kin-state,’ uses the expression “homeland” to refer to a “political, not an ethnographic category; homelands are constructed, not given. A state becomes an external national homeland for its ethnic diaspora when political or cultural elites define ethnonational kin in other states as members of one and the same nation, claim that they belong, in some sense, to the state, and assert that their condition must be monitored and their interests protected and promoted by the state; and when the state actually does take action in the name of monitoring, promoting, or protecting the interests of its ethnonational kin abroad. Homeland politics takes a variety of forms, ranging from immigration and citizenship privileges for returning members of the ethnic diaspora, through various attempts to influence other states’ policies towards its coethnics, to irredentist claims on the territory of other state.” (Brubaker, 1995, p. 110). The term “*kin-minority*”, closely connected to the concept of the “kin-state”, is a group of persons numerically smaller than the rest of the population of a State, in principle permanently residing therein, having national characteristics different from the rest of the population but which are typical of the population of another State. In this, other State persons having such characteristics form a titular nation. Sometimes such a State is called “maternal” (European Commission for Democracy through Law, *The Protection of National Minorities by Their Kin-State*, 2002, p. 188).

***Home state:*** indicates the country in which particular groups reside, also known and used as a “State of residence” or “territorial State” (*European Commission for Democracy through Law, The Protection of National Minorities by Their Kin-State*, 2002, p. 7). Brubaker uses the expression “nationalizing States” similarly to describe those states in which minorities live that are destined to be nation-states (the states of and for a particular nation) – but which are not yet in fact a nation-state (at least not to a sufficient degree) – through the promotion of the language, culture, demographic

position, economic flourishing, or political hegemony of the nominally state-bearing nation (Brubaker, 1995, p. 9).

In the thesis, the expression “home state” refers to those countries in which national minority groups reside that also have a kin-state, but for some reason the latter presently reside in home states. Concerning the countries described in the present research, kin-states and home states are neighboring countries.

***Political representation:*** Hanna Pitkin defines political representation as the activity of making citizens’ voices, opinions, and perspectives “present” in public policymaking processes. Political representation occurs when political actors speak, advocate, symbolize, and act on behalf of others in the political arena. In short, political representation is a kind of political assistance (Pitkin, 1967). It means that representation makes the aforementioned citizens’ perspectives present in public policymaking processes even if they are not physically present in legislative and decision-making bodies (Carstocea, 2013, p. 252) and this is realized ‘only’ through chosen representatives.

The Stanford Encyclopedia of Philosophy highlights five basic components of political representation: *some party that is representing* (the representative, an organization, movement, state agency, etc.); *some party that is being represented* (the constituents, the clients, etc.); *something that is being represented* (opinions, perspectives, interests, discourses, etc.); *a setting within which the activity of representation is taking place* (the political context); *something that is being left out* (the opinions, interests, and perspectives not voiced).

***Political participation:*** the term is commonly used together with ‘political representation’. Political participation is defined as citizens’ activities that affect politics (W. van Deth, n.d.), or generally, as citizens taking part in politics. According to Verba and Nie, political participation is behavior designed to affect the choice of governmental personnel and/or policies (Verba and Nie, 1972, pp. 2-3). Political participation is also defined as any action (or inaction) of an individual or a collectivity of individuals which intentionally or unintentionally opposes or supports, changes or maintains some feature(s) of a government or community (J. Conge, 1988, p. 246).

In the Blackwell Encyclopaedia of Political Science, political participation is defined as the act of taking part in the formulation, passage, or implementation of public policies applying to the activities of any person, whether an elected politician, a government official, or an ordinary citizen, who is active in any way in the political system. It is not part of the definition that political participants must be successful or effective at affecting public policy, although their actions might be expected to have more than a purely symbolic function (Bogdanor, 2002, p. 461).

Effective political participation refers to the fact that the “presence” of minority representatives in decision-making processes should be translated into an “influence” on the outcome of decision-making (Verstichel, 2009, p. 33).

***Participation – representation distinctions and similarities:*** the two terms are often used interchangeably and although their meanings overlap, the distinctions between the two concepts should be highlighted. In the thesis, the two terms are used in the sense presented below.

In democratic societies, the general aim of political participation of citizens can be divided

into two subcategories or two different views: the first emphasizes the more limited participation of citizens through *representative democracy*, arguing that there should be a division between elected professional politicians – who are responsible for making policy decisions – and ordinary citizens, whose role is to elect or reject politicians through elections. The second view supports maximizing the opportunities of ordinary citizens to take part in the making of political decisions through *participatory democracy* and is thus a broader concept, involving a mass of citizens taking part in elections as a widespread opportunity for participation, extending political participation in society, also including various forms of indirect participation (Myntti, 1996, pp. 2-4). Participatory democracy, in general, implies that groups of citizens are given at least the limited right of control over their own affairs and/or a reinforced right to participate in things which affect them directly (Myntti, 1996, p. 5).

In the thesis, political participation is considered as the *main collective term*, thus in the general sense that implies that society or particular groups of society are involved in decision-making processes. In democratic societies, this aim can be achieved through several means (through different subcategories of political participation) and through various processes, two of which have been mentioned above – representative

democracy, and participatory democracy. The thesis first examines the general international framework of political participation (general frame). Subsequently, it focuses on the practical realization of minority participation that is implemented *through* the work of bilateral committees consisting of chosen minority representatives. It deals with the *political representation* (specific frame) of national minorities in the bilateral committees on national minorities as one of the potential forms of political participation in Central Europe.

***Treaty on friendship, good neighborliness and cooperation (basic treaty)***: these treaties, as the name suggests, have been concluded between neighboring states, and regulate a wide range of problematic areas, in most cases including some issues connected with national minorities. The documents, besides their official names, are often referred to in the scientific literature as “basic treaties”. The two terms are also used interchangeably in the present research for the sake of simplicity. The expression “basic treaty” was employed because the first such treaty was concluded in December 1972 between the Federal Republic of Germany and the German Democratic Republic, thereby regulating the relations between the two German states, and was entitled “*Grundvertrag*”, translated literally as “basic treaty” (in Hungarian: “*alapszerződés*”). Basic treaties usually include mutual commitments concerning two specific states, and refer to respect for international instruments (for instance, the Council of Europe, or OSCE), thereby giving them a binding effect in their mutual relations (*European Commission for Democracy through Law, The Protection of National Minorities by Their Kin-State*, 2002, p. 13). In these documents, Parties formulate their aims and objectives in connection with wide range of issues, including national minorities. It also occurs that issues and problems associated with national minorities are not regulated by the basic treaty itself, but by a separate bilateral treaty that deals with the aforementioned topic more extensively. In the six relations between Hungary and its neighbors that are examined, both types of treaties have been concluded and are dealt with in the research.

***Intergovernmental joint committees on national minorities***: these committees are established by the bilateral treaties on good neighborliness and cooperation, or by other bilateral treaties on the protection of national minorities between two particular states. The main aim of such joint committees is to deal with the issues and problems of



national minorities on both sides of the border that reside in the neighboring states by protecting their rights and promoting their interests. The present research, as has already been emphasized, focuses on the work of joint committees between Hungary and its six neighboring countries (Ukraine, Slovenia, Croatia, Slovakia, Romania and Serbia). In Hungarian, the official names of these six joint committees slightly differ,<sup>3</sup> in English – for the sake of simplicity – the bodies are referred to as intergovernmental joint committees. The terms ‘bilateral committee’, “joint committee”, and “bilateral joint committee” also cover the same bodies and are used interchangeably in the thesis. Joint committees consist of appointed members on both sides that include representatives of different governmental bodies (ministries), other experts, as well as the representatives of the given national minorities. Both sides of the committee have an appointed co-chairman to chair the plenary meeting as well as to manage the preparatory meetings and processes of the committee. According to the majority of establishing treaties, committees should meet at least once a year; however, this criterion has not been fulfilled in any of the relations described herein.

### **1.5. Theoretical framework**

The issue of minorities, in general, as well as the bilateral cooperation on minority issues between states that is achieved through the work of intergovernmental committees, involves several aspects that could be deconstructed and examined according to several theories of international relations. However, focusing on the main aim of the thesis (that is, an analysis of the effectiveness of minority participation and representation in the intergovernmental committees between Hungary and its neighbors), *social constructivism* serves as the most suitable theoretical background for the research. This provides a feasible interpretative framework in connection with the situation of national minorities, bilateral cooperation, and the representation of the aforementioned groups in the joint committees. In addition, as an appropriate methodological tool, Rogers Brubaker’s model of triadic nexus is presented in order to secure a better understanding of the issue, and to describe the relations between national minorities, kin-states, and home-states that is applied in the present research.

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<sup>3</sup> In Hungarian: Nemzeti Kisebbségek Jogainak Biztosításával Foglalkozó Magyar-Ukrán Vegyes Bizottság; Magyar-Szlovén Kisebbségi Vegyes Bizottság; Magyar-Horvát Kormányközi Kisebbségi Vegyes Bizottság; Magyar-Szlovák Kisebbségi Vegyes Bizottság; Magyar-Román Kisebbségügyi Együttműködési Szakbizottság; Magyar-Szerb Kormányközi Kisebbségi Vegyes Bizottság.

### 1.5.1. *Social constructivism*

Social constructivism appeared in the 1980s in the USA as a potential counterpole to realist theory in order to credibly respond to the dissolution of a bipolar world order and focus on thought and ideas without simplifying the world concept. Constructivists state that through openness and open-minded ideas, the world, the functioning of particular relations and actors, and the nature of anarchy and balance can be explained more accurately, thus they are even more permissive than liberals. The concept of “constructivism” was first used by *Nicholas Onuf* in a book entitled *World of Our Making* (1989). This highlighted that ‘people always construct, or constitute, social reality, even as their being, which can only be social, is constructed for them’ (Onuf, 1989, p. 1). This means that the structure of society or social arrangements are basically defined by rules and institutions that are established by society itself. Consequently, according to the general constructivist perspective, people construct and create the world through their thoughts, concepts, and notions, and these concepts define the character of relations between people, decision-makers, and states. The representatives of the theory believe that the world is not formed “by itself”, but is the result of human thought, ways of thinking, spoken words and deeds. In connection with international politics and international relations, constructivism also emphasizes that the former are constructed by decision-makers and by political leaders based on thoughts and concepts that have evolved over years, decades, or centuries with respect to other states and other players.

Constructivism has borrowed the concept of structuration from sociology from *Anthony Giddens* (Giddens, 1984)<sup>4</sup> in order to interpret the relation between the structure and the actors within it. According to Giddens, structures do not determine the behavior of players, as claimed by realists, but rather interactions occur between structures and players. In the aforementioned processes of interaction, structures constantly develop, therefore the behavior of players changes, impacting the structure itself; in this way the circle repeats over and over again. That is, in the process of structuration changes occur, frequently changing the social and political environment and relations within it (Giddens, 1984, pp. 4, 15). The concept of structuration is also an important concept and explanation concerning the present research. As already mentioned, according to some views of social constructivism, the behavior of actors can change over time,

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<sup>4</sup> Giddens, Anthony (1984): *The Constitution of Society. Outline of the Theory of Structuration*. Berkeley and Los Angeles: University of California Press.

thereby influencing the structure, and thus the relations between actors and states. This process can definitely be observed in bilateral relations between states in general, as well as during the operation of the bilateral committees on national minorities that are examined here. Political and social changes, as well as past and present historical and political events and actions, significantly determine the overall nature of relations, which can constantly change due to numerous factors. Changes in bilateral relations may occur frequently, as well as after a longer period due to problems and conflicts that are accentuated between parties. One way or another, one can conclude that bilateral processes are never constant, thus the nature of bilateral relations is also never uniform.

According to *Ted Hopf*, constructivism is a way of understanding the politics of identity; how nationalism, ethnicity, race, gender, religion, sexuality, and other intersubjectively understood communities are involved in global politics. Constructivism also deals with those aspects that do not receive much attention in mainstream international relations theory, thus taking into account the fact that varieties of identity are central to understanding social phenomena. It assumes as well that identities are potentially part of the constitutive practices of the state, so are productive of its activities at home and abroad. States behave differently towards other states based on their identities. "Identities also offer each state an understanding of other states, its nature, motives, interests, probable actions, attitudes and role in any given political context" (Hopf, 1998, pp. 192-193). Hopf also emphasizes that state identity in world politics is partially based on the social practices that constitute identity at home. The construction of a national identity at home by a state legitimizes the state's authority, which affects state identity abroad (Hopf, 1998, p. 195). In summary, constructivism deals with underlying conceptions about how the social and political world works, creating an approach to the social environment that is based on two assumptions: 1) the environment in which agents/states take action is social, as well as material; and 2) this setting can provide agents/states with an understanding of their interests (it can "constitute" them). Norms as collective understandings constitute actors' identities and interests and do not simply regulate behavior. Agents (states) and structures (global norms) interact and are mutually constituted (Checkel, 1998, pp. 325, 327).

It should be noted that there are different types of constructivism that explain issues somewhat differently, and focus on various international and national areas. *Structural*

*constructivism* (e.g. Peter Katzenstein, Nicholas Onuf, and Alexander Wendt) highlights that national interests are constructed through a process of social interaction in which states are affected and respond to norms, identities, and cultures in their domestic and global contexts that define their national interests (Das, 2009, p. 963). *Critical constructivists* or *post-modern constructivists* (e.g. Michel Foucault, Richard Doty, Bonnie L. Shapiro, and David Campbell) reconstruct identity by finding out its component parts that are created through written or spoken communication between peoples. *Modernist constructivists* (e.g. Emanuel Adler, Ted Hopf, Christian Reus-Smith, and Jutta Weldes) seize the middle-ground in the constructivist debate, locating themselves between the structural and the post-modern constructivists (Das, 2009, p. 966). *Conventional constructivists* try to explain the world in casual terms by discovering the relationships between actors, social norms, interests, and identities. They assume that actors act according to their identity, and that it can be predicted when this identity becomes visible. It is also possible to identify those factors that have caused the identity of states to change over time.<sup>5</sup>

### ***1.5.2. Social constructivism in international political theory***

Constructivist theorists, regarding the aims of states, agree with realists that the most important objectives of the latter are their security and survival, although they oppose the view that this occurs through following a practice of self-help. Furthermore, as long as realists regard the identity and interests of states as given, social constructivists claim that the identity and interests of states evolves and develops during their contact with other states and actors, and during the formulation of their relationships.

*Alexander Wendt* deals with the issue of anarchy comprehensively, and agrees with realists that the nature and quality of relations between states is defined, or at least highly influenced, by the anarchic construction of the international system itself, and that the degree of anarchy defines the level of cooperation. However, he also highlights that it is social structure that defines the character of relations between states – for example, whether a country considers another one as an ally or as enemy. According to Wendt, international institutions can transform state identities and interests. Anarchy is thus also defined by identity and the preferences of states that are always developed beforehand, since self-help and power-politics do not follow logically or casually from

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<sup>5</sup> International Relations Theory textbook. Available at: <https://www.e-ir.info/2018/02/23/introducing-constructivism-in-international-relations-theory/> (Last accessed: 2 June 2020).

anarchy. There is no logic of “anarchy” apart from the practices that create and instantiate one structure of identities and interests rather than another; structure has no existence or causal powers apart from process. Wendt examines three ways in which identities and interest can be transformed under conditions of anarchy: by the institution of sovereignty, by the evolution of cooperation, and by intentional efforts to transform egoistic identities into collective identities (Wendt, 1992, pp. 363-365). For Wendt, collective meanings or understandings are also produced by interaction between states that constitute the representations of structure within which states organize their actions. This also relates to the construction of the identity of the actors in international relations. Identities, as “relatively stable, role-specific understandings and expectations about self” are relational concepts “with its appropriate attachments of psychological reality, is always identity within specific, socially constructed world” (Wendt, 1992, pp. 397-398). Although identities vary, they are always related to the social definitions that actors collectively hold about themselves or about others that constitute the structure of the social world as mutually constituted, since these identities do not exist apart from each other. Wendt, in conclusion, notes that “identities are the basis of interests” and “actors do not have a portfolio of interests that they carry around independent of social context; instead, they define their interests in the process of defining situations” (Wendt, 1998, pp. 398-399). In the context of Central European states, their attempts to cooperate in the frame of bilateral intergovernmental committees is strongly dependent on the nature of political relations between them, which is significantly influenced by past events, present evaluations, and considerations. However, through bilateral cooperation these views and the shaping of the identity of states can be transformed, as Wendt states, through the “evolution of cooperation”, as well as how the identities of other states are constructed. If identities and views alter, this may also change the political atmosphere and the level of cooperation between states in a negative or positive direction. Political relations between CE states, as is the case between any other countries, are highly dependent on the formation of the aforementioned identities and on the evaluation of political relations between countries.

*Martha Finnemore* also attaches greater importance to the identity and values of states. She also assumes that the behavior of states is defined by their identity and interests, although the nature of these two dimensions is based on norms conveyed by international institutions. In her book *National Interests in International Society*,

Finnemore examined international society in the sense that identity and interests are defined by the international norms of behavior that were developed in the international society itself. These norms are transmitted to states through international organizations, which shape national policies by showing states what their interests should be. She highlights that the international norms of international organizations are able to decisively influence national policies, since the latter encourage states to adopt these norms as their national guidelines. Accordingly, the international environment definitely shapes state identities and the domestic policies of given countries (Finnemore, 2017). Bilateral cooperation and bilateral treaties on good neighborly relations also incorporate some crucial norms and objectives from international documents – mainly from the UN, OSCE, and Council of Europe framework, in order to deal with political topics or issues of national minorities in line with the guiding principles of these documents, among others. The international community and some international organizations also expect states to follow their binding principles, which thus have a crucial influence on the domestic policies of countries, although the more questionable and determining issue is the realization of international objectives *in practice* on a national level, as well as during bilateral cooperation among states. *Jeffrey T. Checkel*, on the role of international norms in domestic politics, also states that international norms have both constraining and constitutive effects at the domestic level. The domestic empowerment of international norms occurs differently in countries depending on the domestic structure itself, which may be categorized by Checkel as liberal, corporatist, statist, or state-above-society. He analyzes in more depth the European human rights regime and norm diffusion as well – for instance, in connection with Council of Europe norms on minority rights and citizenship –, exploring the diffusion mechanisms for empowering these on the European state level, particularly in three states, examining the latter societies according to this categorization. Checkel concludes that the diffusion of norms occurs through very differing pathways in the examined countries, but in a way that is predicted by the domestic structure itself, since this predicts not only diffusion mechanisms, but the initial domestic effects of systemic norms as well. The two key mechanisms that empower European human rights norms are societal pressure (which defines the behavior of and choices of decision-makers), and elite learning (when individuals are taught new values and interests derived from norms) (Checkel, 1997). *Christian Reus-Smit*, in his book *The Moral Purpose of the State* (1999), highlights, inter alia, that states engage in a process of communicative action through redefining the

fundamental institutional rules that facilitate international cooperation. Therefore, fundamental institutions incorporate a set of rules that specify how a legitimate state ought to deal with its problems. In other words, states coexist with each other through fundamental institutions such as international law and diplomacy, which help them to interact with each other within an anarchical system. He explains that states attempt to deal with two basic sorts of cooperation problems: problems of collaboration, and problems of coordination. The former involves states' concern about how to promote common interests, while the latter focuses on the collective actions of states that need to avoid particular outcomes. Problems are the main reasons for states to develop fundamental institutions. These institutions are produced and reproduced through institutional practices.

*Finnemore and Sikkink*, based on their examination of how norms affect political change, also emphasize that international or regional norms set standards for the appropriate behavior of states, and that domestic norms are deeply entwined with the workings of international norms. They argue that norms evolve in a patterned "life cycle" (norm emergence, norm cascade, internalization) and that different behavioral logics dominate different segments of the life cycle. Furthermore, they state that "rationality cannot be separated from any politically significant episode of normative influence or normative change", thus "norms and rationality are intimately connected" (Finnemore and Sikkink, 1998, pp. 888 – 889). *Thomas Risse* and *Kathryn Sikkink* have, inter alia, studied the socialization of international human rights norms into domestic practices, highlighting that "the process by which international norms are internalized and implemented domestically can be understood as a process of socialization" (Risse and Sikkink, 1999, p. 5). They analyzed, similarly to other constructivist thinkers, the impact of ideas and norms in international politics, taking into account differing state identities, interests, and preferences, as well as the process through which principled ideas become norms that influence the behavior and domestic structure of states. However, they also emphasized that "the state is not a black box, but is composed of different institutions and individuals. Once ideas have become norms, we still need to understand how those norms in turn influence individual behavior of state actors" (Risse and Sikkink, 1999, p. 7). Social constructivism does not take the interests of actors for granted, but problematizes and relates them to the identities of actors. Risse and Sikkink also state that: "What I want depends to a large degree on who I am. Identities then define the range of interests of actors considered as both possible and appropriate.

Identities also provide a measure of inclusion and exclusion by defining a social “we” and delineating the boundaries against the “others”. Norms become relevant and causally consequential during the process by which actors define and refine their collective identities and interests” (Risse and Sikkink, 1999, p. 8-9). As they claim, respect for and adherence to human rights norms defines some states as liberal democratic states, and others as norm-violating states. Against this background, as *Gáspár Bíró* observed, the post-1990 international instruments on minority rights, together with the more active role played by kin-states, opened up new perspectives for minorities. As he formulated it: “The rigid rejection of any collective dimension of international minority protection efforts has had a strange effect on the relationship between persons belonging to such minorities and international institutions mandated with a protective role...(…) The establishment of direct and high profile channels of communication between persons belonging to national minorities, influential governments and prestigious international institutions through specific instruments and mechanisms has significantly altered the classic perception of the loyalty of citizens towards the state. Complaining about the government to international fora (and, *mutatis mutandis* to foreign governments), or alerting the international public to politically sensitive domestic situations is no longer considered a crime of disloyalty by a significant part of the “international community” (Bíró, 2000, p. 307). Even if multilateral instruments on minority rights have never granted formal participation to minorities in international affairs, they provide informal channels for minority representatives to be heard. These channels are usually informal, since it is clear that international standards on minority rights of participation are generally understood within the domestic structures of states. However, the formal and informal procedures of bilateral committees offer a special institutionalized forum for minorities to articulate their claims at the international level.

According to *Reus-Smit*, the societies of states usually exhibit a variety of basic institutional practices such as bilateralism, multilateralism, international law, diplomacy, management by the great powers, and even war. Furthermore, he emphasizes that different societies in different historical and cultural contexts develop different constitutional structures and therefore establish different fundamental institutions. In other words, the moral purposes of states vary according to their cultural and historical backgrounds. Putting it more simply, the bilateral cooperation of states, as



an institutional practice, has developed in order to help avoid or solve problems, even those difficulties connected to the issue of national minorities that parties intended to solve, *inter alia*, by setting-up the frame of bilateral committees on national minorities. In addition to the above, state interests, according some constructivists (and of importance in relation to the present research), also change because of social or historical factors. *Ian Hurd* has explained the constructivist approach as “focusing on the social content involved in the production of international relations, including state interests”, while constructivists often examine the historical construction of “national interests” (Hurd, 2008, p. 306). Hurd concludes that the difference between constructivism and other approaches is that the former is concerned with the construction of interests, while the latter takes interests as fixed and given, although this is not correct. What distinguishes a specifically constructivist theory on interests is that the influences on interest formation are social. As emphasized later in the research, it is the interests of states that mainly define the bilateral relations between them, and which influence the character of the relations between parties and affect the success of cooperation concerning any bilateral issues. National interest has been further explained in constructivist terms by other representatives. *Jutta Weldes* has highlighted, similarly to the above, that national interests can be understood as a social construction, since state officials, before they act for the state, need to interpret the situation they face, as well as the potential responses to that situation. This process of interpretation presupposes a shared language among state officials that determines state action, and among the population for whom state action must be legitimate. This shared language is that of national interest, which “is produced in, emerges out of, a process of representation through which state officials make sense of their international context. The “national interest” is constructed, is created as a meaningful object, out of shared meanings through which the world, particularly the international system and the place of the state in it, is understood”. Weldes has also studied the concept of cultures of security, adopting the general position of constructivism that people act according to the meanings things have for them, so “crises are social constructions in that they are fundamentally the outcome of particular social practices, included practices of representation”. Dealing with the insecurity of states, it is highlighted by Weldes, *inter alia*, that all insecurities are culturally produced; the identities as well as the insecurities of states are not given but emerge from a process of statist discourses through which individuals, state officials, leaders, members of nationalist movements, and other actors

describe attributes for themselves and others. In this sense, the insecurities of states – for instance, the fear of many Central European states of national minority groups, and their handling of them in certain situations as a security threat – are strongly dependent on the judgment of states that is formulated in connection with the aforementioned groups, which often involves endowing them with different attributes, characteristics, and respectively, identities. Although the above-mentioned fear is almost never publicly pronounced, in the majority of Central European states its roots are deeply embedded in societies, mainly based on partially justifiable but also false past or present historical, social (and other) factors and events. The approaches – or fears – that states have developed in connection with national minority groups that reside therein, self-evidently strongly influence the policies followed towards them; moreover, this claim is clearly applicable to Central European states.

### ***1.5.3. National minority issues and constructivism***

In Central Europe after the regime change, mainly in the 1990s, the focus on implementing more regulations, documents, and guidelines in connection with the protection of national minorities based on international human rights instruments increased. As already mentioned, a significant number of international provisions were incorporated into the bilateral treaties on good neighborly relations and friendly cooperation, and into other bilateral treaties on the protection of national minorities (See Vizi, 2020). It should be noted as well that some international organizations (for instance, NATO and the EU) also urged, explicitly or implicitly, some Central European countries to implement and pay more attention to international norms concerning minority issues and protection. On the other hand, the majority of Central European states also aimed to move closer, at least to some degree, to international organizations, which also meant demonstrating respect for the objectives of these bodies, including respect for minority rights. As a result, national regulations and objectives concerning the rights of minorities were clearly influenced by international norms, many of which were implemented into domestic or bilateral documents, although their practical realization significantly varies in the states under analysis.

Concerning the bilateral committees on national minorities between Hungary and its neighboring states, the establishing treaties also referred to international documents, commitments, and objectives related to the protection of national minorities, and affected the participation of national minority groups and their influence on decision-

making in bilateral committees positively. However, it should be emphasized, as explained in the research in detail, that the operation of committees and their successes and failures have not primarily depended on international norms. The implementation of international objectives concerning national minorities (for instance, securing their language use in education or in administration, and other rights), is or would be of crucial importance, and without respect for minority rights states can hardly make progress in the frame of bilateral committees on national minorities. However, it should also be noted that, besides the implementation of international and national commitments on minority protection, it is the practice and the nature of political relations between the Parties that influences the work of bilateral committees the most. As emphasized above, according to constructivist thinkers, these relations are mainly defined by the identities of states, by their evaluations and judgments about themselves and others, as well by historical experiences with the other party concerning cooperation or problematic topics. It holds especially true for Central European kin-states and home states that dealing with national minority issues is strongly defined by former experience, historical events, and judgements determining the policies presently followed towards the aforementioned groups. The outcomes of these policies thus relate not only to the concerned groups, and not only define the nature of relations between neighboring countries (at least concerning the operation of bilateral committees), but also affects higher decision-making levels in a continual and circular process. Putting it simply, as constructivism states, concepts, norms, and relations between groups, towards groups, or between states, and the interpretation of different meanings crucially determine the nature of present relations. The character of bilateral relations and the relationship between national minority groups and the home-state, national minority groups, and the kin-state is also determined by the aforementioned concepts. The conclusion of bilateral treaties between the examined states is, as highlighted above, partially based on the implementation of international norms, but also on the willingness and ‘conceptualization’ of states to follow these norms that are incorporated into bilateral and other treaties. The present thesis, in connection with political representation, also presents and examines the international legal and political framework of these norms, certain of which were referred to by the later examined bilateral treaties.

While the practical implementation of international commitments differs significantly, not only in the examined Central European countries but also in other European states,

in the 1990s the acceptance, implementation and incorporation of international norms into treaties on good neighborliness and friendly cooperation, as well as other bilateral treaties on national minorities was generally a positive development in terms of protecting minority rights. On the other hand, the importance of the highlighted issue for governments has always been highly dependent on their actual policy-making and the objectives of the given countries, as well as on the importance they award to the protection of minority rights. In this context, although with regard to the intergovernmental committees on national minorities set up by the bilateral treaties between Hungary and its neighbors the institutional and procedural framework for the participation of minorities is very similar, the success of their operation and the effective participation of national minorities in these bodies mainly depends on the dynamics of the actual bilateral inter-state relations. Therefore, it can be concluded that the operation of bilateral commissions is grounded both on the international norms incorporated into the establishing treaties, as well as, and mainly, on the past and present concepts and meanings of concepts, experiences and evaluations assigned to the groups concerned, and on the nature of past and present political relations between states.

Bilateral committees in this regard cannot be solely seen as formal institutions under international law. Their composition and institutional procedures are defined in treaty provisions not strictly legal terms. They can be more considered as political bodies, where identity politics are coupled with norm-interpretation offering a flexible institutional structure for minority representatives. This explains why the dynamics of how bilateral committees work can be understood from a constructivist approach. International norms play an important role in the institutional design of these committees and how minority issues are addressed in their work. However, the participation of minorities in the committees, the functioning and effectiveness of co-operation in the joint committees is a primarily a political issue influenced by the actual perceptions, motivations and identity politics of State Parties.

#### ***1.5.4. Criticism of constructivism***

Constructivism, as with all theories of international relations, has its areas of debate and shortcomings. One critique of constructivism is that it presents a state-centric view that examines individual state identity, as well as norms and practices, within the international system, while dealing with actors at only one level, thus lacking analysis

of more layers. Constructivists also disagree about the nature of the international system – whether it can be characterized by anarchy or authority. Some argue that anarchy is the fundamental organizing principle of the international system, and they also add that the social construction of cultural content within an anarchic system produces variation in the structural opportunities for units that leads to variation in outcomes and patterns of state behavior. Others are of the opinion that changes in the social relations among states can transform the anarchical system into a non-anarchical one through the influence of an authority, a representative of legitimate power. This creates a social hierarchy that involves following the directives of authoritative rules or actors (Hurd, 2008, pp. 308-309).

Furthermore, constructivists should pay greater attention to research design. As in most cases single countries or issues are examined, norms are presented without explaining how much or to what degree these norms affect outcomes. Constructivist scholars should pay equal attention to negative phenomena in international politics that are socially constructed, since many representatives only consider ethically good norms. Examining the other side of the coin would be also useful in terms of directing attention to important but explored issues. Constructivism focuses mainly on positive norms such as human rights, environmental protection, climate change, women's rights, and many others, but less attention to xenophobic nationalism, racism, and the spread of homophobia and so forth, which are also very important research themes. Most constructivist scholars also fail to produce definitions of the key terms they use in their theories, thus these could be developed. For instance, the word 'institutionalization' is used by many constructivists without giving a proper explanation of what this process refers to (Checkel, 1997, pp. 339-340).

Some scholars have argued that constructivism contains unexplained anomalies: for instance, it has had to adopt theories of politics to succeed, because in several cases the former can only be seen as an approach, not as a theory. Conventional constructivism does not specify the existence, the nature, and the value of its main constitutive elements: identities, norms, practices, and social structures. However, it specifies how these elements are theoretically situated towards each other, and understands processes and outcomes, but does not give predictions.

#### **1.5.5. *Links to Brubaker's triadic nexus***

Constructivist approaches may help with framing the position of minorities in bilateral inter-state relations from an institutional, normative perspective. As argued above, minorities in this specific relational context may be seen as international actors, formulating their own interests and claims in a formalized procedure at a horizontal level with governments. The bilateral treaties and intergovernmental committees examined here were all established by states that have a clear interest in supporting their co-nationals living in a minority position on the territory of another party. However, this institutional approach cannot completely reveal the motivations and the political dynamics influencing inter-state relations on minority issues.

Rogers Brubaker in his seminal work on the interplay between state and minority nationalism offers a useful methodological tool to understand the political and ideological background influencing both the creation and functioning of joint committees (Brubaker, 1996). Nationalism studies mainly focus on the theoretical background of the political instrumentalization of “nation”, on the roots and evolution of modern nationalism. The debates over the origins of nations and nationalism, characterized by the rival approaches of primordial and modernist interpretations focus on the political and historical implications of the evolution of nations (See among others for a general introduction to nationalism literature Hutchinson and Smith, 2000.; Guibernau and Hutchinson, 2001; Kántor, 2004; Smith, 1998). Modernists argue that the concept of “nation” is a political product of modern nationalism as it emerged in the 19<sup>th</sup> century and as it was influenced by social changes leading to the evolution of modern nation-state (Gellner, 1984; Hobsbawn, 1990). Other authors argue that modern nationalism has deep historical roots in ethnicity, ethnic communities that created the basis and background for the evolution of nationalism (Armstrong, 1982; Smith, 1998). Large part of the nationalism literature deals with the different characteristics of nationalism. Hechter offered a typology based on the goals of nationalism (state-building, irredentism, unification, etc.) (Hechter, 2000), Smith pointed out that the term ‘nationalism’ may refer to very different interpretative concepts (ideology, evolution of nations, national feelings, etc.) (Smith, 1998). Against this background, Brubaker focused on the actors and representatives of nationalism: how does the *position* of different state and minority actors influence their goals and interpretation of nationalist arguments. Not only states and minorities have different goals because they are in different position, but also kin-states and home-states have a different approach.

The dynamics between the neighboring kin-states and minorities is clearly explained by Brubaker's triadic nexus. Brubaker found that there is a clear interaction between "*national minorities*", "*nationalizing states*" (home states) – the countries in which they live – and "*external national homelands*" (in other words, the kin-state) to which they belong by ethnocultural affinity. This triadic nexus involves three distinct and mutually antagonistic nationalisms. The nationalism of nationalizing states refers to "claims made in the name of a 'core nation' or nationality, as defined in ethnocultural terms. The core nation is understood as the legitimate 'owner' of the state, which is conceived as the state of and for the core nation" (Brubaker, 1996, pp. 4-5). External national homelands directly challenge these nationalisms and "assert states' rights" – indeed their obligation – to monitor the condition, promote the welfare, support the activities and institutions, assert the rights and protect the interests of "their" ethnonational kin in other states (Brubaker, 1996, p. 5). If ethnonational kin is threatened in the nationalizing state, the nationalist strategies of homelands may be in direct opposition with nationalizing nationalisms. National minorities may be caught between these two nationalisms, also having their own nationalism – i.e. making claims on grounds of their nationality and having a political stance with regard to securing their rights based on their distinct ethnocultural nationality (collective, nationality-based cultural and political rights) (Brubaker, 1996, pp. 5-6). Brubaker also holds that the classic example of the triadic nexus was interwar East Central Europe, since after the First World War tens of millions of people were assigned to other nation-states than their own, and unprecedented attention was paid to the national belonging of persons, as well as territories (Brubaker, 1996, p. 6).

According to Kemp, and based on Brubaker's model highlighted above, a state may act like a nationalizing state in reaction to a perceived threat to its identity (and even sovereignty) by one of their minorities' kin-states and the latter's relations with this minority. In order to defend their homeland, elites in the majority community emphasize their nationalist aims, thereby further polarizing bilateral and inter-ethnic relations (Kemp, 2006, p. 111). A kin-state may also behave like a nationalizing state, but on a grander scale: the nationalizing state's ambitions are confined to its own borders; a kin-state may seek to protect their nationals where they live, usually in neighboring states. Such policies are often based on historical factors or nostalgia for a golden age of greater nationhood, and represent a means of exerting pressure on a

neighboring state (Kemp, 2006, p. 112). Both the kin-state and the nationalizing host state can behave as nationalizing entities, since both parties are interested in the fate of national minorities, although the reasons for this are different.

The aforementioned triadic nexus of national minorities, nationalizing states, and external national homelands can be modified or extended to a quadratic nexus, as also used in the scientific literature, since the model of Brubaker does not deal with the role of international organizations (such as the EU, Council of Europe, OSCE, or NATO), although these bodies shape the post-communist identity politics of Central Europe. The quadratic nexus links nationalizing states, national minorities, and external national homelands to the aforementioned institutions of an expansive “Euro-Atlantic space” (Smith, 2002, p. 3). It is a valid statement that international bodies should be taken into consideration besides the other three actors, since the cooperation involved in international organizations and the legal and political framework of these bodies may influence the situation and issues of states, as well as national minorities. As highlighted above, states in their bilateral documents (or in the case of the presently examined bilateral treaties establishing the joint committees on national minorities), also incorporate international standards and refer to specific international documents for dealing with minority protection, as well as with other problematics. This is also why the international environment cannot be omitted from the examination of minority issues, nor – in most cases – from the analysis of bilateral relations.

This triadic or quadratic nexus may also explain how – in bilateral relations – the three actors’ identities and interests are shaped by many external factors. Not only do the domestic political-cultural environment and international normative standards and institutions affect the behavior of states/governments vis-à-vis their minorities, but also the actions and reactions of kin-states and the minorities themselves. This triadic/quadratic nexus shows clearly that minority claims are also directly influenced by states’ attitudes and bilateral relations. Minority representatives may freely act and participate in bilateral committees, in principle, but the delicate nature of inter-state relations will obviously represent an informal but real limit to minority claims. Furthermore, national governments significantly influence and define the sending parties or organizations of minority representatives based on national political considerations, as well as on the nature of relations between the two states and between the given minority and the home state. Even if parties reach agreement about the participating minority representatives in the work of given committees, the decisions or



approval of the home state are decisive, and reaching an agreement that is beneficial for both states is also mainly based on the actual political relationship between the two countries. The constructivist approach that focuses on norms and institutions in this context may be completed by paying attention to the dynamics of identity politics in this triadic nexus. International norms on minority rights play an important role in this regard, as it will be discussed in detail below.

## **1.6. The foundations of the issue: General overview of the situation of national minorities from an international legal and political perspective**

The existing international normative framework of minority rights has developed in a complex way, reflecting different legal approaches and political considerations. Although, there is no general consensus among states on how to accommodate minority claims, in a European context we may agree with Galbreath and McEvoy (Galbreath and McEvoy, 2012) that there is a European minority rights regime that influences and contextualize our understanding of minority rights. In the following chapters, mainly the legal, political and historical background concerning national minorities will be reviewed. The following section provides a short legal and historical foundation and perspective about relevant areas concerning national minorities that helps the reader to better understand the situation and background of national minorities, as well as the subsequent sections of the thesis.

### ***1.6.1. International legal perspective***

From the international legal perspective, it should be noted that through the protection of the rights of national minorities, minority groups are ensured, theoretically, the same rights as those of the majority. If minority rights are respected, minority groups have the opportunity to be “effectively present” in the given society without any discrimination, and without relinquishing their identity. In other words, through the implementation of minority rights these groups are enabled not only to participate in society by being able to obtain the same, or almost the same, positions that the majority already or essentially possesses, but they are also granted the right to enjoy and preserve their own characteristics, such as their own culture, language, traditions, and religion.

As already mentioned, the implementation of minority protection can often be realized only by introducing new or “additional” measures and procedures in favor of the

aforementioned group. Putting it differently, the majority already enjoys rights and measures that minority groups must secure by introducing new or different methods.

The implementation of minority rights, or of the previously mentioned different measures, often faces obstacles. The most obvious reason for this is the political aspects connected to minority issues – namely, the political conduct of states that is followed towards their or other national minorities –, which can almost never be separated from the legal issues, thus in practice involves their joint management. This basically means that although preexisting binding or non-binding legal frameworks on minority issues define commitments and recommendations for states, the level of practical implementation of these provisions depend significantly on the will and policies of states.

The international legal framework has not dealt with national minority issues for a long time; nor is the latter one of the legal and political priorities of our days. However, it should be added that since the second half of the twentieth century (after the regime change) and within the European framework, crucial shifts took place, not only in international and European politics, but also with regard to important binding and numerous non-binding documents and regulations that were adopted in connection with the rights of minorities. Concerning specifically the issues of national minorities, it should be noted that due to the specificity of the topic, significantly less binding instruments were adopted at international level that focused only on the aforementioned category. Some crucial documents are presented in the following chapters that serve as important and useful reference points when referring to rights and protection.

National minority issues, besides their above-described relevance, are linked to the structure of international law through the concept of *state sovereignty* and *national self-determination* (see Musgrave, 2000). State sovereignty is dependent on the fulfillment of various criteria, while national self-determination is exercised through the power of a population, assuming that the entire population adheres to the nationalism of the given state. The sovereignty of states, an almost self-explanatory concept, reflects, inter alia, the exclusive control of a political authority of the state over the people living in that particular country, and presupposes the sole decision-making ability of the authority over state issues, which is exempt from external interference<sup>6</sup>. In connection with

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<sup>6</sup> For a detailed discussion of the problematic nature of sovereignty see Stilz, 2019.

national minorities, the concept is often referred to in the context that the kin-states of national minorities do not have the right to interfere – or have the possibility to interfere only on very limited occasions, and only with the agreement of the home state – in the issues and life of national minorities living in these aforementioned home states. International legal regulations clearly support this perspective (Kardos, 2006). The other concepts, national self-determination is often linked to state nationalism presupposing a fit between the state and the nation. However, in reality, these two concepts rarely coincide. In other words, national self-determination presupposes only one autochthonous national group in one state, and thus is exclusionary as far as national minorities are not members of that autochthonous national group constituting the majority of the population (Malloy, 2005, p. 25). In other words, national self-determination highlights the importance of a particular nation in a country, whereas self-determination has the same significance for national minority groups regarding their ability to freely define themselves *within* a particular state.

The issue of national minorities also reveals a fundamental legal contradiction. On the one hand, according to international law the protection of human rights, including minority rights, is the primary responsibility of the state in which minorities reside. On the other hand, the majority of states have some constitutional provisions, legislation, or administrative practices that promote the rights of its national minority residing abroad (Palermo, 2011, p. 3). The latter aspect is further analyzed in Chapter III of the thesis, concerning the protection of national minorities in *bilateral relations*, representing a sort of middle ground between international and state-level minority protection. Referring to this in brief, as Palermo has also highlighted, the treatment of national minorities has shaped a considerable part of inter-state relations, while in terms of international law the former is only weakly established. International documents have clarified, however, that while the protection of minority rights is primarily the responsibility of the state in which these minorities reside, it is also an issue of international concern, and the international community has a say in connection with the treatment of minorities (Palermo, 2011, p. 3). Furthermore, several other topics can be connected to such inconsistencies and to minority issues in general – for instance, the extent of the responsibility of the international community in terms of defining the rules or mechanisms connected to the treatment of minorities, considering that the situation of these groups differs significantly in the majority of states. The second issue is the

management of the problematic of bilateral cooperation between neighboring countries regarding national minority issues, and the scope of opportunities that are secured for kin-states to be involved in the life of their kin minority that can be achieved through the protection of their rights or in other ways (e.g. financial support, etc.). The third topic and concern is the handling of the issue and the policies that are followed towards national minorities in particular countries, the level of implementation of international legal measures of minority protection, as well as the introduction of protective domestic instruments that focus on the rights of national minorities. Additional to the issue described above, many others could be highlighted, implying that the topic – the protection of national minorities – depends on many factors and is based on differing aspects and considerations.

From the international legal perspective, a further crucial problem that is highlighted by all the experts who deal with national minorities is the lack of a universally accepted definition of the term itself. Although it is very important to precisely identify the group one is speaking about or dealing with, constructing a precise definition has hardly been achieved, mainly because of the diverse nature of minority groups. This lack of definition often leads to different kinds of minority groups being merged together without differentiation (e.g. among national minorities, migrants (old – new minorities), indigenous peoples, and other minorities). However, it is misleading to use these terms interchangeably, since the highlighted categories refer to different groups of people. Under the term “minority” various groups can be identified with distinct historical, political, and social backgrounds, as well as present situations, needs, and objectives. In other words, the term ‘minority’ in the context of international relations is so broad that it may easily be meaningless unless further qualifications are attached to it. One can conclude that a “minority is a relational concept indicating imbalance, asymmetry, a numerical disproportion between two or more groups of humans. The question of minorities becomes an issue when different groups who are numerically inferior within a state, claim rights that are politically sensitive to grant” (Bíró, 2000, p. 298).

Although a few other considerations could be raised in connection with legal perspectives on minorities in general, as well as on national minorities, the focus of the thesis is on other issues. Moreover, in the following chapters other important legal perspectives, as well as the legal background related to the topic under analysis is presented.

### ***1.6.2. International relations and the historical perspective***

The phenomenon of autochthonous national minorities did not exist before the rise of the modern state and international legal system, so the protection of national minorities was unknown in pre-modern times. However, minority protection is not a new “invention” in the sense that it can be traced back to the seventeenth century – for instance, special rights for religious minorities were incorporated into the Treaty of Westphalia (1648); and in the nineteenth century the three great congresses of Vienna (1814-15), Paris (1856), and Berlin (1878) included minority protection provisions in their treaties. The rights of autochthonous national minorities were not clearly defined, in contrast to those of religious minority rights, until after the First World War. As a result of the peace negotiations and redrawing of state borders in 1919-20, the number of national groups living as minorities in several states diminished, and new nation-states came into existence, simultaneously creating new national minorities in other states (Malloy, 2005, p. 28). Some countries incorporated certain minority obligations in General Peace Treaties, while in other cases minority protection obligations were accepted outside of these treaties. The League of Nations system, founded in 1920, and concerning the protection of national minorities, was based on the idea of the protection of the aforementioned population in the areas in which they were traditionally settled (Björn, 2008, p. 5) but the system has fallen short of expectations inasmuch as it has often been biased towards state interests, and has failed as a solution in terms of maintaining peace and stability, and in the case of the minorities in Europe.

Before 1945, the situation of national and ethnic minority groups with kin-states was strongly politicized. Concerning the period between the Second World War and the democratic transition of 1989, the sovereignty of the nation-state and its territorial integrity acted as the solution to minority questions, as minority issues belonged to the internal affairs of States. However, in the world of nation-states, under international law, individuals were entitled to the right of self-determination, as previously mentioned, and the rights of national, ethnic, religious, and linguistic minorities were internationally recognized (Bíró, 2000, p. 300) although on a state level nationalist rhetoric arose. Even the importance of minority rights was questioned, since experts and lawyers questioned if there any specific minority and collective rights beyond human rights; i.e. should the self-determination of these groups be recognized separately, or “only” within the frame of human rights? (Bíró, 2000, p. 301) After the Second World

War, a large number of national minorities were forcibly resettled; on the other hand, the issue of autochthonous minorities in the Soviet bloc was settled through oppression and expulsion. In the West, bilateral agreements between countries and new constitutions based on federal arrangements secured some protection for minority groups (Malloy, 2005, p. 30). Although minority rights received more and more attention after the Second World War, minority groups were handled by most states as vulnerable groups needing protection (a *human rights approach*), on the one hand, but on the other hand as groups being and causing a security threat in the country in which they reside (the *security approach*), thereby affecting the stability and the existence of the community negatively. The reason for the different approaches towards minorities lies in the historical background and political reasons that continue to define even the present tendencies. In many cases, this legacy has only with difficulty, or not at all, been overcome – neither by society, nor by decision-makers, with attendant disadvantageous consequences for the lives of national minorities. Differing views about minority groups are the crucial drivers or obstacles to the promotion or restriction of minority rights in general. The postwar concern that minority rights might endanger international peace and security has been replaced, gradually, by an equally pragmatic but more nuanced perspective – one that accepts that a failure to protect minority rights might also exacerbate ethnic and cultural tensions between majorities and minorities and lead to the splintering of political communities (Macklem, 2008, p. 541).

After 1945, at the international level, the protection of human rights started to dominate the legal discourse, including the individual and group characteristics of minority rights – for instance, the Charter of the United Nations of 1945 highlighted the importance of the self-determination of peoples. However, perhaps the most important document in this regard, the *Universal Declaration of Human Rights* of 1948, did not specifically deal with the issue of minorities, but contained principles crucial for every kind of minority – for instance, by guaranteeing freedom of expression, freedom of religion, the right to cultural and political participation, equal rights for all, and non-discrimination. In the *Council of Europe framework*, the issue of national minorities (notably, the prohibition of discrimination based on any grounds, including national origin or association with a national minority) was first emphasized by the *European Convention*

on Human Rights of 1950.<sup>7</sup> The *International Covenant on Civil and Political Rights* of the United Nations of 1966, promulgated with the purpose of “recogni[zing] the inherent dignity and [...] the equal and inalienable rights of all members of the human family” (*UN International Covenant on Civil and Political Rights*, 1966, Preamble) was also an important milestone that referred to minorities and declared, inter alia, that persons belonging to minority groups are entitled to the enjoy their own culture, religion, and language, in community with others.<sup>8</sup> However, it is debated whether the aforementioned article refers to groups or affects “only” the individual human rights aspect of minority rights. Emphasizing and implementing this differentiation is of crucial importance, since it significantly defines the rights that may be enjoyed by minorities, particularly the fact whether they can enjoy their rights individually or in community with others. It is undeniable that persons belonging to national minorities (or to any other minority group) are able to exercise the vast majority of their rights in community with other members of their group. When the group aspect of minority rights is not secured, minorities have only the opportunity to enjoy their individual rights, which largely overlap with basic human rights. Furthermore, it is also impossible to exercise certain minority rights individually – for instance, taking into account the linguistic rights or right to education of national minorities. In the followings, it is highlighted that some of the countries under examination accept only the individual rights of minorities, but not collective ones, so securing both groups of rights strongly depends on the states themselves, mainly based on the policies they follow towards national or any other minorities living in the country.

Political participation and the representation of national minorities, the main topic of the thesis, is also associated with the collective nature of minority rights in the sense that minority representatives, at least in theory, represent the interests of a group as a whole (the overall community), based on votes received from the majority of the members of the group.

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<sup>7</sup> Council of Europe, *European Convention on Human Rights* (Rome, 4 November 1950), Article 14 on the prohibition of discrimination: “*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*”

<sup>8</sup> United Nations, *International Covenant on Civil and Political Rights*, 19 December 1966, Article 27: “*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.*”

Turning specifically to Central and Eastern Europe, the Peace Treaties of 1947 already refer to the rights of national minorities; however, these texts only contain commitments not to discriminate against the aforementioned groups. Practical measures concerning the protection of the identity of the former and anti-assimilationist aims did not receive much attention at that time (Björn, 2008, p. 7). After the democratic transition of 1989, the situation changed significantly both politically and legally in Europe, inferring crucial developments with numerous issues, including the area of national minority protection. However, in the 1990s it also appeared that national minorities were part of numerous conflicts and the fragmentation of several states, with the latter being unable to keep pace with a newly emerging world order and the rapid changes occurring in CEE. After the dissolution of the Soviet Union in 1991, of Czechoslovakia in 1993, and the breakup of Yugoslavia, a high number of national minority individuals remained in the newly founded states because of border changes and partitions, where they were left to fight for recognition of their rights in the home countries, and against discrimination of all kinds. For these reasons, the plight of national minorities started to receive growing attention in the wider international community. The behavior of states towards their national minorities became the subject of bilateral and multilateral treaties, and consideration was paid to their status in regional associations and intergovernmental institutions (Minority Rights Group International and Helsinki Foundation for Human Rights “*The Role of Minorities in International and Transborder Relations in Central and Eastern Europe*” Workshop Report, 1998).

In the European legal framework, a wide range of minority standards have been developed since the 1990s. The *Organization for Security and Cooperation in Europe (OSCE)* has followed a “soft law” approach in relation to the development of minority rights, focusing mainly on security, military, economic, and environmental issues. However, the political and human rights dimension, including the rights of national minorities, has also become a non-negligible and important area of the organization’s work. In the framework of the predecessor of the OSCE, the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE of 1990, and the CSCE Helsinki Document of 1992, contain certain provisions highlighting the importance of protection of the rights of ethnic, national, and other minorities. In the United Nations (UN) framework, the *UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities of 1992*



was established to “promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion”, and “considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live” (Preamble). The Declaration, inspired by the ICCPR, also declares the importance of protecting the national or ethnic, cultural, religious, and linguistic identity of minorities in the states in which they live (Article 1 (1)). The document pronounces that these groups have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language in private and in public, freely and without interference or any form of discrimination, and have the right to participate effectively in cultural, religious, social, economic and public life (Article 2(1) and (2)).

Besides the OSCE and the UN, the *Council of Europe* contributed to the development and respect for the rights of national minorities in the 1990s, pursuing a stricter approach to the adoption of treaty norms and related proposals in this area (Arp, 2008, p. 7). It should also be noted that the role of the Council of Europe is probably the most significant one in connection with national minority norms, in the sense that it has adopted several binding documents that constitute a significant share of minority protection measures. The *Council of Europe European Charter for Regional or Minority Languages* of 1992, and the *Framework Convention for the Protection of National Minorities* of 1995 secured a promising frame for national minorities by protecting their identity through cultural, linguistic, educational and other objectives. In connection with the issues related to the present research, several important provisions of the two aforementioned documents are highlighted in more depth in the following chapter of the thesis.

Neither should the role of the *European Union* in the 1990s be ignored concerning the promotion of minority rights. For instance, the *Pact on Stability*, initiated by the French Prime Minister Edouard Balladur in 1993, was adopted by 52 OSCE Member States’ representatives, and concerned six Central and Eastern European countries (Bulgaria, the Czech Republic, Hungary, Poland, Romania, and Slovakia) and the three Baltic states. Its aim was to improve neighborly relations by avoiding the issue of borders and to establish minority rights based on international standards by encouraging accession to

the EU. The Pact did not have any legal force, although it initiated the start of several negotiation processes between neighboring states. On the other hand, the issue of national minorities also became important at the EU level because some of the underlying problems with the societies of states had to be solved effectively. These difficulties were often caused by the dissatisfaction of national minority communities, by various forms of animosity within such states, and by the assimilationist tendencies of several states that weakened the unity of the EU, and threatened peaceful internal relations in Member States. For this reason, inter alia, the EU *Accession criteria* of 1993 highlighted that one of the essential conditions for candidate countries becoming a member of the EU is their guaranteeing the stability of institutions and democracy, the rule of law, human rights, and respect for and the protection of minorities. Concerning these criteria, the literature often mentions the existence of double standards in terms of the imposition of different claims by the EU on its neighbors and partners connected to minority protection and other issues that were not respected or not reckoned with in preexisting Member States (e.g. Henrard, 2010).

Although a general framework for the protection of national minorities has not been established yet in the European Union, in the 2000s several instruments highlighted the importance of the issue. The *Charter of Fundamental Rights of the EU* stressed the aim of non-discrimination based on any grounds, including sex, race, color, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation (Article 21 (1)). The *Treaty of Lisbon* of 2007 emphasized the importance of the respect for the rights of persons belonging to minorities, adding several “innovations” into the EU framework – for instance, the term “minorities” became part of EU primary law. *Article 2 of the Treaty on European Union (TEU)* speaks about the values of the European Union, including respect for human dignity, freedom, democracy, equality, the rule of law, respect for human rights, including the rights of persons belonging to minorities.<sup>9</sup> The EU in general focused and now focuses on the transformation of state sovereignty, the question of shared sovereignty, multi-level governance, and national minority regions, which means that European integration creates new opportunity

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<sup>9</sup> “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.” (Treaty on European Union and the Treaty on the Functioning of the European Union, 2012/C 326/01, Article 2.)

structures for minorities to formulate their claims and positions (Vizi, 2015, p. 120), but it does not specifically 'create' novelties or a general background for minority protection.

Besides the international and European framework, in the 1990s numerous bilateral treaties on good neighborliness, and friendship and cooperation among states were adopted, and the majority of documents also incorporated the issue of and protection of national minorities. These bilateral agreements became good reference points when dealing with the protection of national minorities. Bilateral treaties on good neighborly relations or on regulating other areas of cooperation were also concluded in Europe (as well as outside Europe) in the nineteenth and twentieth centuries, although the practice of concluding these treaties was reinvented by Germany after 1991 to guarantee the frontiers resulting from the Second World War and to ensure the protection of German minorities living in Central and Eastern European states (Gál, 1999, p. 4). This practice was also followed by Hungary, and by many other Central and Eastern European countries, which focused, inter alia, on defining a course of action and protective measures in connection with each other's national minorities. The present research examines the practice of bilateral treaties in more depth in Chapter III.

Last but not least, when dealing with the historical and legal background of minority protection on an international level, not only should the relevant documents and provisions be mentioned, but also the special mandates and positions that were set up to oversee the situation and protection of the aforementioned groups, the majority of which were established in the 1990s and 2000s. The CSCE Helsinki Document of 1992 established the mandate of the *CSCE/OSCE High Commissioner on National Minorities* as an instrument of conflict prevention at the earliest possible stage in order to provide "early warning" and "early action" with regard to tensions concerning national minority issues which might develop into conflict within the CSCE/OSCE area, affecting peace, stability, or relations between participating States (*Conference for Security and Co-operation in Europe Helsinki Document*, 1992, Part II (2) and (3)). In the UN framework, the mandate of the *Independent Expert on minority issues* was set up by Resolution 2005/79 of the Commission on Human Rights in order to address minority issues, and to consult directly with governments on minority issues, taking into account the views of NGOs, expert bodies, UN agencies, regional and other inter-governmental

organizations and other civil society organizations (Office of the United Nations High Commissioner for Human Rights).<sup>10</sup> The office of the Independent Expert was replaced by the *Special Rapporteur on Minority Issues*, designed to promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and to support the full and effective realization of the rights of persons belonging to minorities and to facilitate cooperation with NGOs and other actors (Office of the United Nations High Commissioner for Human Rights).

The review of the above-highlighted frameworks could be continued and more widely explained, involving a more detailed overview of the related provisions as well as a reading of the situation of national minorities. However, in the previous section the intention was only to provide some of the basic background to several perspectives concerning national minorities, thereby putting the examined issues into context. After having presented the theoretical and methodological frame of the research, and having defined the most crucial concepts and expressions, the subsequent chapter of the thesis starts to unfold the issue of the political participation and the representation of minorities in general, and national minorities in particular, in order to provide a framework for the foundation of the research topic. In Chapter II and Chapter III, both the international legal framework of political participation and the representation of national minorities, as well as the historical and political background to national minority issues, are further analyzed.

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<sup>10</sup> Official website of the Office of the United Nations High Commissioner for Human Rights. Available at: <https://www2.ohchr.org/english/issues/minorities/expert/index.htm#mandate>. (Last accessed: 12 November 2019).

## **Chapter 2: THE PARTICIPATION AND REPRESENTATION OF MINORITIES IN PUBLIC AFFAIRS**

### **2.1. The general framework for minority rights and minority participation and representation**

Respecting minority rights as a category of human rights is of crucial importance regarding, inter alia, securing equal opportunities for national minorities that are similar to those of the majority of a given country, as previously emphasized. However, the aim of this thesis is to examine the effectiveness of minority participation and the representation of national minorities in joint committees between Hungary and its neighbors, thus it is of crucial importance to put the issue into context and review the multilateral legal framework for minority participation and representation. Furthermore, it is also essential to define, based on multilateral documents and the scientific literature, how the “effectiveness” of political participation and representation is understood, and what the main features and requirements are that should be fulfilled in order to consider the participation and representation of national minorities effective. By doing this, through the review of the relevant sub-question related to the issue presented in this chapter, the importance of and the practical meaning behind effective political participation and the representation of national minorities can be better understood.

The legitimacy of minority rights may be deduced from the respect awarded to human rights and human dignity, in general. The rights of minorities also rest on the foundation that religious, cultural, and linguistic affiliations are essential characteristics of individuals that are connected to and define their identity. Minority rights protect those key features that constitute human identity, and respect for minority rights is strongly connected to basic features of human rights, such as the principle of non-discrimination on any ground, the principle of equality, the right to human dignity, and the right to identity. As emphasized in the previous section, the practical implementation of minority rights should occur in several areas and include different ‘sorts’ of rights – for instance, minority language use, minority education, the establishment of minority institutions, the enjoyment of cultural rights, and so on. A crucial aspect of respect for minority protection and minority rights, besides the above, is ensuring the political participation and representation of these groups in public affairs, so they are able to take part effectively in the life of society.

The present dissertation, as already highlighted, focuses on certain minority groups within a particular territory: on the national minorities in Central-Europe. Legal documents, as well as scientific literature, refer to the aforementioned groups of people as “national minorities”, “national minority groups”, or “persons belonging to national minorities”. However, even if the expressions cover the same category of people, the interpretations of the terms may vary. The term “national minority or minorities” is the most general expression from those listed above, and refers to a certain group or groups as a whole, also often defining the national belonging of the group – for instance, the Slovak national minority. The expression “national minority groups” emphasizes the group aspect of national minorities and the collective nature of their being, as well as, in many cases, referring to the necessity of securing their group rights and collective rights – as briefly dealt with in the previous section. In contrast, the term “persons belonging to national minorities” enhances the individual nature of the rights of national minorities, as far as it refers only to persons that belong to these national minority groups for whom only individual rights should be or have to be secured. In the following chapters, it will become clear that, for instance, the treaties establishing the joint committees between Hungary and its neighbors, as well as many international legal and political documents, literally refer to the rights of “persons belonging to national minorities” because some Central European countries do not accept the group aspect or collective nature of minority rights, but only the individual rights of national minorities, as explained in the following chapter. The present research mostly uses the term “national minority”, focusing on these communities as a whole and accepting and supporting the fact that national minorities should also be awarded collective rights so that they can fully enjoy minority rights in practice. Furthermore, the political participation and representation of national minorities is, in most cases, realized through chosen representatives that, in principle, should represent the interests of the overall community (or the majority of the community). This applies, in most cases, to the minority representatives taking part in the joint committees established between Hungary and the six neighboring countries examined in further chapters of the thesis.

When emphasizing the importance of the participation and representation of national minorities in public life, it should be noted that without providing the opportunity for the political participation of minority groups, their interests as a group are not or cannot be taken into account on the state level. The right to political participation in democratic

societies is “accessible” to the *citizens* of particular states, in general, and elections are the most obvious examples of the exercise of the aforementioned right. This general realization of political participation is open to both the majority as well as to the national minorities in the given society because it is basically bound to citizenship. However, the identity and self-determination of national minorities differs from that of the majority, and for the sake of preservation of that identity, ensuring that these groups enjoy the same rights as the majority, the former should be supported in the given societies through specific means and procedures. In other words, different sorts of political participation and representation opportunities should be secured for them that go beyond the general means of representation that are ensured for every citizen.

In relation to the principle of equality, it should be noted that in terms of the enjoyment of human rights, no differentiation should be made between the majority and the minority. For minority groups, the implementation of the aforementioned separate regulations and methods does not create “additional” rights, and never puts minorities into a “more powerful” position than that of the majority. These measures only secure the opportunity to develop a level playing field with the majority society.

While respect for minority rights has been gradually developed throughout decades, the importance of granting the right of political participation has become one of its crucial aspects. Political participation can be promoted through several means and procedures and various types of political participation can be distinguished. The most frequently used methods include voting; election-related campaign activities; citizen-initiated contact with government officials; and cooperative participation (group or organizational activities for dealing with social or political issues). Additionally, there are several relevant issues related to participation, including the scope of participation; who participates in decision-making; the mode of communication and decision-making (which involves an analysis of how participants exchange information and make decisions, as well as the extent of authorization) (ECMI Handbook ‘Participatory Mechanisms for National Minorities’, 2015). The particular importance of minority participation is also that the subsequently derived rights are ensured to secure the existence of a community – primarily, the right to preserve, develop, and transmit the identity of the community to future generations. To achieve this purpose, the group must be in a position to take decisions, and to create and maintain different institutions. These rights are the practical translations of the right to freedom of expression, freedom

of association, freedom of assembly, and freedom of choice; namely, a synthesis of fundamental rights and freedoms (Bíró, 2000, p. 319). On the part of states in which minorities reside, securing their political participation and representation is also crucial in the sense that only those minority groups who feel that their state of residence belongs to them will be prepared to fully integrate themselves into that state. Consequently, in the case that minority participation is effectively realized, this will contribute to the internal stability of the state, as well as to peaceful majority-minority relations. Furthermore, a political system is not regarded as democratic only because it proclaims itself as pursuing the needs or interests of the people, but in relation to democracy, this always implies that the people play some part in determining political decisions. In democratic societies, the government is not only “for the people” but involves government “*by the people*”. However, it should also be added that democratic practices have always varied extensively in relation to who is included in “the people” (Phillips, 1998, pp. 27-28). Practice shows that the category of “people” covers, in most cases, the citizens of the state being empowered to take part in the political decision-making regardless of national or ethnic identity.

In addition to the above, one of the most crucial aspects of the political participation of a group is the fact that its realization is not itself sufficient to secure effective democratic decision-making. The *presence* of a group in a decision-making process does not automatically lead to their *influence* on the outcome of any decisions. Therefore, political participation and representation may be considered successful if the particular group is represented *effectively* throughout the given processes. It can easily happen that it is the obligation of the state (or the practice that is followed in a country) that minority representatives are or should be consulted or involved in decision-making processes, mainly concerning issues relevant to their lives and identity. In many cases, these groups are included and are given the opportunity to express their views and opinions about certain issues. However, this does not unequivocally mean that they can influence final decisions, thus their presence alone does not guarantee the opportunity of influencing decisions. In the following, the concept of the “*effectiveness*” of political participation will be examined as it is highlighted and explained in several international documents, as well as strengthened by views of certain experts. The following section lays down the foundation of the examined issue, defining and exploring the essence and



meaning of political participation and effectiveness. Without effectiveness, political participation does not fulfill its real objective.

## **2.2. The ‘effective’ participation of national minorities**

As highlighted above, “effectiveness” is the key factor that should be achieved during the participation and representation of national minorities, and in connection with other issues in general. Without effectiveness, national minorities can only be “takers” rather than “makers” of decisions. In this section, the meaning behind the term “effective” is briefly analyzed based on the most significant international documents and the scientific literature about the issue.

As previously mentioned, the effective political participation of minorities serves a twofold aim: it contributes to the stability of peaceful majority-minority relations, and it helps preserve and promote the distinct identity of minorities (Hoffmann, 2006, pp. 6-7). Effective minority representation develops and stabilizes relations among citizens and strengthens dialogue between different parts of society. The alienation of segments of society creates fragmentation in states and can lead to more serious conflict in the long term, such as demonstrations, civil unrest, or armed conflict. Consequently, the effective participation of minorities can be justified from a *rights perspective* and from a *security perspective*. The rights perspective means that the main goal of minority representation is to achieve a state of substantive equality in society in order to overcome structural inequality and discrimination, and to enable minorities to protect and promote their identity (Verstichel, 2009, pp. 91-93). The security perspective of minority representation implies, for instance, that if minorities are not secured the opportunity of effective participation in decision-making, dissatisfaction arises, as revealed through the former’s divergent, non-standard, or forceful ways of making their concerns heard. The problems of minorities may start creating fault lines in society initially, but negligence of their claims and needs may lead to violent conflict.

On an international level, a significant number of documents incorporate the term the “effective participation” of minorities. In general, although a cursory remark, it should be noted that the “presence” of minority representatives in decision-making processes is not sufficient in itself because this should be translated into “influence” on the outcome of decision-making. “It is not enough that minorities have one or more seats reserved for them in parliament. They can still be outvoted” (Verstichel, 2009, p. 33).

The existence of democratic elections is a basic precondition for citizens and thus for national minorities to express their will and opinion about internal matters. The importance of elections is that no citizens can be excluded from the electoral process. Human rights instruments recognize limited grounds for excluding individuals from voting or standing as a candidate for election; however, membership in a minority group can never constitute reasonable grounds for exclusion (Wheatley, 2002, p. 6). However, as also mentioned above, beyond the general level of participation in decision-making, more specific methods and means of political participation should be implemented for national minority groups so that they “have control” of the internal decisions that affect them. In practice, the aforementioned objective can be best realized through securing cultural and territorial autonomy for national minority groups, although such a solution is typically opposed by the home states in which minorities reside. Accordingly, these countries should introduce other mechanisms for minorities so they are able to exercise control over the issues that affect them.

In the scientific literature, the “effectiveness” of minority participation is approached in two ways: on the one hand, it can be interpreted as a *minority right*, and on the other hand, as a *political guarantee* of the stability of democratic institutions. These two concepts are strongly correlated, taking into account the fact that the lack of political participation of minorities and their exclusion from decision-making can hinder the effect of other minority rights. As emphasized above, the exclusion of minorities from political life can easily lead to the alienation of minority communities from the residing state and the blocking of institutional channels and the opportunity for minorities to preserve their identity (Vizi, 2017a, pp. 1-2). Consequently, the more effective participation is, and the more inclusive the system is based on the different interests and needs of persons belonging to minority groups, the closer it comes to fairly representing the whole spectrum of interests of the groups that are involved. The more pluralistic the procedures for involving minorities in the decision-making processes are, the more effective participation is (Palermo, 2007, p. 411). Furthermore, the involvement of different groups of minorities means the recognition of diversity in the given society. Diversity recognition in a given country implies that most important national legislation acknowledges, in some way, the socio-cultural diversity of a country, thus it reveals whether minorities are considered actors potentially engaged in politics, or the opposite. In connection with this issue, Székely and Horváth highlight that the following

questions should be addressed when dealing with diversity recognition: “What is the standing of minorities; are they recognized as part of ‘the people,’ or as constituent parts of the political community? In case the existence of minorities is acknowledged, are they referred to as individuals or as communities? Are the minorities enumerated in the constitution or other important legal documents, or mentioned only in general terms?” (Székely and Horváth, 2014, p. 428) Other important issues concerning their representation are the extent they are able to represent themselves through the national party system, through their own political organizations, and whether they have the possibility to develop political pluralism within their own community (Székely and Horváth, 2014, p. 428).

A “fair” system or fairness in decision-making would also presume that the above-posed questions are positively answered, and the interests and perspectives of minorities are respected. To achieve this objective, the standard political rights secured by the common rights associated with citizenship are of crucial importance. When minorities have the right to vote and run for office, as well as organize themselves politically and advocate their views publicly, it is often sufficient to ensure that their interests receive a fair hearing. It is important to highlight that a crucial feature of minority groups is the opportunity to organize themselves, and to act in community with other members of the group. National minorities do not take part in decision-making only as individuals, but more importantly, their interests as a group and as a community should be represented. As Kymlicka has highlighted, securing individual political rights is sometimes insufficient to represent the differences of the aforementioned groups fairly, inasmuch as groups may remain seriously underrepresented, for instance, in legislatures. Citizens who do not see themselves represented in the legislature may become alienated from the political process and question its legitimacy (Kymlicka, 1996, pp. 131-132, 150). Furthermore, the representation of a group (or group representation) should be realized within the context of other mechanism as well, besides legislation, such as in legal challenges to unfavorable legislation in the courts, and interest-group advocacy (Kymlicka, 1996, p. 150). Anne Phillips has emphasized that fair representation is achieved through a continuous process, that it cannot be guaranteed in advance, and that it depends on a degree of responsiveness to the electorate. Effective or fair representation also means that all political preferences should be awarded equal weight, or that all citizens have an equal opportunity to vote for a winning candidate. It can occur, for instance, that to ensure that people have equal power over outcomes, their

presence has to be weighted unequally, or that in order to protect minorities, the votes of the latter have to be given additional weight (Phillips, 1998, pp. 4, 36).

The realization of effective political participation is, in many cases, preceded by several steps – for instance, Palermo emphasizes that effective participation in *cultural, social and economic life* is a prerequisite for effective participation in public affairs, since political participation is meaningless if ‘more basic’ forms of participation are not guaranteed (Palermo, 2007, p. 413). At the same time, he highlights that there is no universal formula for minority participation. As briefly described in Chapter I, throughout the years the approach of states towards minorities and minority rights has changed. In the past, minority rights were looked at from the perspective of the majority and of nation-building objectives, requiring common and exclusionary loyalties and the homogenization of the public and private space. With the dissolution of feudalism and the formation of the “modern state”, ethnicity started to play a role in state policy, but Europe was widely fragmented in territorial terms and the nation-state system was the dominant form of political organization. Although multinational state structures, such as the Habsburg, Russian and Ottoman Empires, consisted of many peoples, only one was dominant in terms of state policy. In the Habsburg Empire, in Switzerland, and in Belgium in the second half of the nineteenth century, positive steps were taken to guarantee equal rights for all nationalities that were also declared in their constitutions, but other European countries did not follow this approach (Pan, 2018, pp. 236-239). However, after the First World War the problematic issues of national minorities became so pressing that they could not be overlooked, and in the Paris Peace Treaties several provisions were included for securing minority protection, although their implementation was not enforced (Pan, 2018, pp. 240-242). After the Second World War, fundamental changes occurred in the international system, as mentioned previously, in terms of both power relations and the adoption of international documents. The UN Universal Declaration of Human Rights in 1948, and the European Convention on Human Rights in 1950, defined crucial human rights provisions, affecting – but not solving – the issue of national minorities. Further on, the topic became increasingly relevant, as it was recognized by most European states that dealing with national minority issues promotes the unity of countries they reside in, thus the issue could not be put aside. Since the 1990s, both at the level of international organizations and bilaterally, the protection of national minorities has received more

attention than before. It can be observed that not only has the development of and respect for minority rights undergone different stages, but the same has occurred in connection with the effectiveness of minority participation.

Concerning the national, domestic level, the effective representation of minorities significantly depended and still depends on the policies that states follow towards national minorities residing in the country, as well as towards their own kin-minorities living in other states. When minority representation is realized effectively in a country in one form or in another, the questions also arise whether all minority groups are equally represented, and what are the criteria for minority group representation. In general, minority participation and representation involves a dilemma: on the one hand, this is of crucial importance for any minority group because it should be self-evident that minority policies cannot be elaborated, implemented, and monitored over the heads of the groups that are involved. On the other hand, involving minorities into the decision-making always carries the risk of involving only some minorities, some of their representatives, some of their views, some of their interests (Palermo, 2007, p. 410). As examined by Verstichel, proportional representation, or the minimum representation of minority representatives in decision-making processes cannot always ensure the former's effective participation in public affairs, since presence is not translated into policy influence. Minority representatives, in many cases, can be easily outvoted, and a lot depends on the decision-making rules that are adopted in the legislative body (Verstichel, 2009, p. 85). Even when numerous minority groups receive special attention, or have the opportunity to represent themselves, the level of effectiveness is often questioned. The real concern is whether it is enough to secure formal equalities for people, or if it is more important to address the structural obstacles that prevent certain groups from making full use of their equal rights (Phillips, 1998, p. 35).

Multilateral, bilateral, and domestic legal and political regulations and instruments may establish the framework of the political representation of minority groups, but such methods or policies have to be applied in practice. The political and historical background, as well as the approach of political elites, towards national minorities varies from country to country, implying that the realization of the political participation of minority groups should be adjusted to the domestic conditions of the given state. The intergovernmental joint committees on national minorities between Hungary and its

neighboring countries that are later examined more depth are particular forms of a bilateral approach that focuses on securing the rights of national minorities, as well as involving them in the work of committees – in other words, into the decision-making about issues that affect them. Furthermore, the establishment of joint committees has taken into account the domestic conditions, as well as the nature of bilateral relations, between Hungary and neighboring countries, in which the problematics of national minorities have always played a crucial role.

In addition to the above, not only is the practical realization of effective political participation of minorities problematic, but also the real meaning behind the terms themselves. The terms “political participation” and “political representation” are often used interchangeably, presupposing these expressions cover the exact same meaning. Although the two concepts largely overlap, differences between their interpretation can be observed. According to Phillips, the meaning of political participation and political representation is somewhat different: while the equality of presence is implicit in the former, it is not so obviously implicit in the latter. She emphasizes that political equality involves some degree of equality in participation, and so the systemic absence of particular social groups counts as a self-evident failure of democracy. However, the literature diverges according to which groups are considered worthy of attention (Phillips, 1998, p. 31).

The term, and in general the importance awarded to ‘political participation’ is stressed expressively in *Article 15* of the Council of Europe Framework Convention for the Protection of National Minorities (henceforth, FCNM), in a document that has binding effect. According to the document, “Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.” The text does not specify the scope of the term; however, the Explanatory Report to the FCNM highlights the practice of the AC in connection with the issue. The Explanatory Report to the FCNM emphasizes the importance of encouraging real equality between persons belonging to national minorities and the majority, and mentions several specific measures states should take to facilitate the participation of minorities in public affairs, such as: consultations with persons belonging to national minorities through their representative institutions, in issues affecting them directly; involving them in the preparation, implementation, and assessment of national and regional development

plans and programs that affect them directly; undertaking studies with the involvement of national minorities to assess the potential impact of the projected development-related activities; ensuring the effective participation of persons belonging to national minorities in decision-making processes and elected bodies at national and local levels; and ensuring decentralized or local forms of government (paragraph 80). It should be added that the realization of the highlighted methods depends on several other factors, and on the characteristics of the given minority groups, such as their number, location, situation, aims, and other aspects. Rainer Hofmann stresses that whether minorities live in a territorially compact settlement or dispersed throughout the whole territory of the state, factual conditions impact how the state construction will benefit the effective political participation of these minorities. Europe is home to a great variety of state constructions, from centralized states and limited local governments to centralized states with limited regional structures and local governments, as well as regional and federal states with differing forms of local government. Hofmann emphasizes that both the factual conditions of minority settlement and the traditions of state construction should be taken into account when one assesses the improvement of the political participation of minorities (Hofmann, 2006, p. 10). Article 15 of the FCNM does not specify the exemplary method or forms of effective political participation of minorities either, leaving the issue open to states' consideration.

In representative democracies, the minimal sense of 'participation' is securing voting rights for persons belonging to minorities. Accordingly, the right to effective participation means that the interests of minorities should be, or are, effectively represented. In this sense, the expressions minority representation and minority participation can be used interchangeably. However, based for instance on the monitoring mechanism of the FCNM, the right to effective participation of minorities involves more 'active' content and the actual physical presence of minorities in decision-making processes (Verstichel, 2009, p. 30). Furthermore, in the strict sense of the word, political representation means the act of making citizens' voices, opinions, and perspectives 'present' in public policy making processes, even when they are not physically present in different decision-making and legislative bodies (ECMI Handbook, 2015, p. 9). In practice, political representation is the ability of these persons to contribute relevant facts to, or argue their position before, the decision-makers, to propose reforms, be co-decision-makers, veto legislative or administrative proposals, and establish and manage their own institutions in specific areas (Ghai, 2003, p. 5).

The effective political participation of minorities is also closely connected to their empowerment: to “the process of increasing the capacity of individuals or groups to make choices and to transform those choices into desired actions and outcomes. Central to this process are actions which both build individual and collective assets, and improve the efficiency and fairness of the organizational and institutional context which govern the use of these assets” (Malloy, 2014, p. 17). According to Sadan, the empowerment of minority groups (or of any other marginalized group) means the transition from powerlessness to more control in life through a change in human activity and social structure. Community empowerment aims at changing social systems and creating structural alternatives, and takes place when expectations for change begin to be realized (Sadan, 1997, pp. 143 and 147). Malloy highlights that it is when minorities mobilize based in relation to such protection-based schemes and claim their rights, also calling on duty-bearers to take responsibility, they then move towards the goal of empowerment, which process also includes individual and collective action. During these activities, human and social capital must be involved; human capital in terms of the ability of the individual members of a minority to raise awareness about their situation and take action. Social capital is an important element of forming and joining groups that mobilize for joint action (Malloy, 2014, pp. 21, 24).

From the above, it can be noted that political participation and representation can be defined in various ways, but its substance lies in its practical implementation. When the aim of states is the protection of minority rights, this should be followed by the creation of the proper conditions for the realization of the effective participation of minorities in cultural, social, and economic life, as well as in public affairs. Consequently, the political participation of minorities, as one of the main pillars of minority protection, enables national minorities to access decision-making regarding wider public policy matters, as well as the special issues affecting these communities directly. As has already been highlighted, the main aim of the present research is to examine a specific form of minority participation and representation that is realized through the practice of intergovernmental committees on national minorities. However, prior to the analysis of the specific topic, more information about the general international and bilateral framework of political participation of minorities is presented, focusing on the human rights instruments set up in the frame of particular international organizations as crucial



reference points. It is also crucial to summarize the most important international frameworks in connection with the issue because, according to social constructivism, as highlighted in the theoretical framework of the research, international institutions and norms can transform state identities and interests. As also emphasized in Chapter I, the behavior of states is defined by their identity and interests, although the nature of these two dimensions is based on international norms and institutions that may influence domestic policies if countries introduce these norms into their national legislations. If states follow the international framework concerning given issues, this shapes the states' identity and domestic policies, and may thus significantly define bilateral relations, at least when international commitments are strengthened by the parties themselves. Concerning the cooperation of Central European states in the frame of bilateral committees on national minorities, a considerable number of international documents and commitments have been included into the establishing treaties with the aim that countries should follow the referred-to objectives in connection with national minorities. Constructivism also strengthens the claim that internationally defined rules, international law, and diplomacy help states to cooperate with each other within an anarchic system, and defines norms and standards for countries to follow. Both international and regional norms may fulfill the aforementioned role, and domestic roles are entwined with the workings of these international norms. Correspondingly, national policies may and should implement those international norms and measures that strongly influence certain areas – for instance, the protection of the rights of national minorities, or securing opportunities for their political participation and representation.

### **2.3. General human rights instruments related to the political representation of minorities**

The right to political participation of national minorities is incorporated into several binding and non-binding multilateral human rights instruments, and in international institutions' frameworks, while offices and positions have been set up to deal with issues of minorities, including their political participation. The following sub-chapter does not specify each international document that deals with political participation and representation of national minorities, but highlights those instruments that are referred to by the six examined bilateral treaties that establish the joint committees on national minorities between Hungary and its neighbors that are more deeply analyzed in Chapter IV. As has already been mentioned, the commitments and aims of certain multilateral

documents that have been incorporated, strengthened by the bilateral documents examined herein express the objective of the related countries to follow these norms and ground their relations on these multilateral instruments. According to Kovács, a bilateral treaty may define rights that are considered important; however, this benefit vanishes if the given state has already made these commitments in a multilateral treaty or as a unilateral legal commitment (Kovács, 1997, p. 8). Thus, in bilateral treaties some multilateral or unilateral commitments and documents are ‘only’ referred to, but – evidently – the regulations contained in these multilateral documents bind the given state in the absence of the later established bilateral treaty. In addition to that, we may assume that even soft-law norms referred to in bilateral treaties as legal commitments gain a legal force (Tóth, 2020). The bilateral treaties establishing joint committees between Hungary and its neighbors typically refer to a similar collection of multilateral documents and commitments.

The United Nations Charter, the human rights documents of the United Nations Organizations, the Helsinki Final Act, the Paris Charter of New Europe, and other documents published by the Conference on Security and Cooperation in Europe are referred to by all the six treaties that establish joint committees as main sources of multilateral commitments to be followed. Furthermore, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child,<sup>11</sup> and the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>12</sup> are also emphasized by some of the establishing bilateral documents. Furthermore, some of the examined bilateral treaties refer to the Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and the European Charter for

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<sup>11</sup> Referred to by the Convention on providing special rights for the Slovenian minority living in the Republic of Hungary, and for the Hungarian minority living in the Republic of Slovenia; by the Convention between the Republic of Hungary and the Republic of Croatia on the protection of the Hungarian minority in the Republic of Croatia and the Croatian minority in the Republic of Hungary and by the Treaty between the Republic of Hungary and Serbia and Montenegro on the protection of Rights of the Hungarian Minority living in Serbia and Montenegro, and the Serbian Minority living in the Republic of Hungary.

<sup>12</sup> Referred to by the Convention on providing special rights for the Slovenian minority living in the Republic of Hungary and for the Hungarian minority living in the Republic of Slovenia and by the Treaty between the Republic of Hungary and Serbia and Montenegro on the protection of Rights of the Hungarian Minority living in Serbia and Montenegro, and the Serbian Minority living in the Republic of Hungary.

Regional or Minority Languages and the Framework Convention for the Protection of National Minorities of the Council of Europe<sup>13</sup>. Additionally, the Convention on the Prevention and Punishment of the Crime of Genocide; the Convention against Discrimination in Education; the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; the Council of Europe Convention for the Protection Human Rights and Fundamental Freedoms; and the recommendations of the Parliamentary Assembly of the Council of Europe<sup>14</sup> are also highlighted by a bilateral treaty.

As can be observed, the majority of international documents referred to by the bilateral treaties overlap; therefore, similar multilateral commitments are emphasized by the examined treaties. In the following section, the multilateral documents that are typically and predominantly referred to by the examined bilateral treaties are summarized in relation to regulations connected to the political participation and representation of national minorities. It should be noted that the establishment of the documents presented below might be considered a major development after the general neglect of minority rights during the nineteenth as well as first half of the twentieth century. While it should be emphasized that during the establishment or wording of the highlighted multilateral documents, representatives of minorities were not involved, the documents between the respective governments are ‘multilateral’ in nature. In most cases, the majority of states also tried (and continue to try) to avoid minorities playing a significant role during the process of evaluating the implementation of the commitments of the highlighted documents or treaties. In spite of this, in some cases states are obliged to accept that minorities receive or obtain a role in evaluating their situation and the practical implementation of multilateral objectives and commitments in relation to some monitoring mechanisms – for instance, regarding the implementation of the later examined Council of Europe Framework Convention and the European Charter (Kovács, n.d.).

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<sup>13</sup> Referred to by the Convention between the Republic of Hungary and the Republic of Croatia on the protection of the Hungarian minority in the Republic of Croatia and the Croatian minority in the Republic of Hungary and by the Treaty between the Republic of Hungary and Serbia and Montenegro on the protection of Rights of the Hungarian Minority living in Serbia and Montenegro, and the Serbian Minority living in the Republic of Hungary.

<sup>14</sup> Referred to by the Convention between the Republic of Hungary and the Republic of Croatia on the protection of the Hungarian minority in the Republic of Croatia and the Croatian minority in the Republic of Hungary.

In the following, for the sake of transparency, the multilateral documents and regulations regarding political participation and the representation of national minorities are presented in clusters in accordance with the establishing multilateral organization.

### **2.3.1. United Nations (UN)**

In the UN framework, until the 1990s, the *Universal Declaration of Human Rights (UDHR)* and the *International Covenant on Civil and Political Rights (ICCPR)* serves as the main reference points when dealing with the issue of minorities. Although, the mentioned documents did not specifically include the effective participation of minorities, important aims have been formulated closely connected to the topic.

Article 21 of the UDHR states that: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.(...) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures". In connection with the Article it should be noted that it does not specify a particular level of government, and so the right should not be read in a confined manner. Besides, it does not mention any particular forms of participation which could mean that direct and indirect participation represent equally valid forms of participation, and no form of democracy is specified (Thornberry, 1996, p. 28).

The other relevant document, the ICCPR, secures the framework of general legal principles and binding commitments. *Article 25* of the ICCPR declares that "Every citizen shall have the rights and opportunity without any of the distinctions mentioned in Article 2<sup>15</sup> and without unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

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<sup>15</sup> Article 2 of the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 19 December 1966, declares that: "1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. 2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant."

(c) to have access, on general terms of equality, to public service in his country". The mentioned article highlights the broad nature of political participation in public affairs, being possible and open, however also limited, to citizens irrespectively of their ethnic background. The article highlights the 'equal suffrage' requirement emphasizing the general aim of securing the opportunity of political participation following either the method of choosing a representative or the method of participatory democracy.

In addition, the *General Comment 25* on Article 25 of the ICCPR explains the importance and meaning of political participation, voting rights and equal access to public service extensively. It notes that, in contrast with other rights and freedoms recognized by the Covenant, that are ensured to all individuals within the territory and subject to the jurisdiction of the State, Article 25 protects the rights of "every citizen", referring to the importance of citizenship (*Human Rights Committee, General Comment No. 25: The right to participate in public affairs, voting rights and the rights to equal access to public service*, 1996, para. 3). The Comment defines the conduct of public affairs as a broad concept relating to the *exercise of political power*, in particular the exercise of legislative, executive and administrative powers. It also covers all aspects of *public administration*, and the formulation and implementation of policies at international, national, regional and local levels, highlighting that the means by which individual citizens exercise the right to participate in the conduct of public affairs should be established by the constitution and other laws (paragraph 5). This participation, based on the Comment, can be realized through several forms, for instance by direct participation, by changing the constitution, deciding public issues through referendums, through formulation of assemblies and having the power to decide on local or minority issues. (paragraph 6). The Comment, correctly, supports the view that the exercise of political power and the visible influence of minority groups on decision-making are the real indicators of minority representation, the means through which it is achieved are of secondary importance. In other words, methods can vary and change depending on the State and on many other factors.

In connection with representation, Article 1 and Article 27 of the ICCPR contain important provisions that should be connected to minority participation. Article 1 highlights that all peoples have the *right to self-determination* which implies the free determination of their political status; freely pursue their economic, social and cultural development; freely dispose their natural wealth and resources. The right to self-

determination is crucial concept in connection with the effective participation of minorities both from external and internal point of view. In the external dimension, human rights violations and exclusion from government are negative minimum guarantees for or aspects of minority participation and representation, and in case certain ethnic groups are excluded from representation, the secession could serve as the last solution. From internal dimension, self-determination is connected to democracy and the participation of all people in decision-making processes of the State, irrespectively that they belong to a minority group or not (Verstichel, 2009, pp. 186-187). Self-determination should be defined not only under international legal terms, but also in terms of democratic policy-making. It means that it is not an one-time act, but rather a permanent condition developing a mode of participation that offers, as for the members of the majority, to members of minorities the possibility to be involved to the most possible extent into the political decision-making process of a country, being responsible for the guarantee of their existential necessities of life (Pan, 2018, p. 248). The right to self-determination is of crucial importance not only for minority groups, but for all people in general, as already mentioned.

The way a person or a group defines itself, the characteristics of identity have a few aspects, considerations and backgrounds. It is due to the fact that the identity of a person or of a group consists of several overlapping elements that can also change over time. It means that, similarly to determination of identity, self-determination may be a changing concept including numerous features constituting altogether the given identity. As it is regulated by international documents, right to identity belongs to basic human rights, recognition of identity, as a defining feature of a person or a group, has to be respected. In the contrary case, the narrow and exclusive interpretation of identity could lead to questioning the democratic structure of a state or organization. As Charles Taylor has highlighted: “identity is partly shaped by recognition or its absence, often by the misrecognition of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves. Non-recognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being” (Taylor, 1992, p. 25).

Furthermore, Article 27 of the ICCPR emphasizes that persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with the

other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. This provision is crucial in formulating the requirement that minority group members can enjoy these rights in community with others, in other words it emphasizes the collective nature of minority rights. The reason behind the provision is that the major part of minority rights can only be enjoyed together with other members of the group, as also mentioned above, for instance minority language use, minority language education, the preservation of minority culture, and so on. The ICCPR, besides the right to take part in public affairs and right of equal access to public service, protects other political rights as well that can be closely connected to minority representation. Securing the *freedom of expression* (Article 19), the *freedom of association and assembly* (Article 21 and 22) and the *right to vote and stand for election* (Article 25) are also crucially relevant for national minorities in order to successfully represent themselves in political life of the given State.

In UN framework, the right to effective participation in public affairs has been firstly incorporated into the *UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* in 1992. The Declaration itself is not legally binding, but most of its provisions are referred to or incorporated into many other instruments of binding and non-binding nature. As it was previously noted, the document is inspired by the provisions of Article 27 of the ICCPR concerning the rights of persons belonging to ethnic, religious and linguistic minorities.

Article 2 of the Declaration highlights that “persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation” (paragraph 2-3). The text draws up clearly, that the participation of minorities should be *effective*; however, it does not contain any suggestions or methods in order to reach the mentioned goal. Furthermore, it should be noted that the first sentence of Article 2 differs from the second, since firstly, it deals with participation in “public life”, and secondly, it refers to the aim of participation “in decisions concerning the minority to which they belong or the regions in which they live”. Consequently, the first provision indicates the right of minorities to participate in the conduct of public

affairs, for instance, in law making, to the same extent as other groups of society. The second provision speaks of participation that should be granted to minorities with regard to questions directly affecting the *group* to which they belong or the *region* in which they live (Myntti, 1996, p. 12).

According to the document, minorities have the right to establish and maintain their own associations, as well as maintain free and peaceful contacts with other members of their group or other minority groups, and contacts across frontiers with citizens of other States to whom they are connected by national or ethnic, religious or linguistic ties (paragraph 4-5). The *Commentary of the Working Group on Minorities to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, in connection with paragraph 2 of Article 2, adds that the right to participate in all aspects of life of the larger national society is essential for national minorities to promote their interests and values and to create an integrated, but pluralist society. Article 2 also refers to the effective participation of minorities in decisions concerning them or the regions where they live that is a more narrowed approach compared to the general nature of paragraph 2.<sup>16</sup> The Commentary also adds that representatives of national minorities should be involved already at the initial stages of decision-making because the experiences show that it is only moderately useful to involve them only at the final stages where there is very little room for compromise. Therefore, minorities should be involved at the local, national and international levels in the formulation, adoption, implementation and monitoring of standards and policies affecting them (section 38).

Furthermore, Article 2 (3) of the Declaration implies that minorities should not participate in a manner incompatible with national law. This last clause should have dangerous implications for minorities, as far as it could indicate that national legislation can get preference over the Declaration, which could lead to the erosion of the right set by the above mentioned paragraph. However, it can be argued that national legislation cannot counter the aim of the Declaration, the protection and promotion of minority identity (Verstichel, 2009, p. 251).

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<sup>16</sup> Article 2, para. 2 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities: "Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination".



According to the Commentary, effective participation provides channels for consultation between and among minorities and Governments, serving as dispute resolution mechanism, being able to secure the stability of a society. The number of persons belonging to minorities is, in most cases, too small to determine the outcome of decisions in majoritarian democracy, and so they must have the right to be taken into account before decisions which concern them are adopted (section 42). Minority groups, however, have to be distinguished from each other because the nature and characteristics of representation may vary according to the types of minority groups (e.g. living dispersed or compactly; small or large number; old or a new minority group) (section 43). Effective participation requires representation in legislative, administrative and advisory bodies and more generally in public life. The Commentary provides examples for the practical realization of minority representation, such as single-member districts at territorially concentrated minority groups; proportional representation systems and some forms of preference voting (section 45).

The Declaration sets another important objective, *inter alia*, the right of minorities to maintain contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties (Article 2, paragraph 5), and the Commentary additionally notes that the right to transfrontier contacts is one of the major innovations of the Declaration. It also defines that these contacts must be “free”, but also “peaceful”; the latter limitation has two aspects: contacts must not involve the use of violent means or preparation of the use of such means; and the aims must be in conformity with the Declaration and generally with the purposes and principles of the Charter of the UN (section 52). Transfrontier contacts are evidently important also in bilateral relations as it will be explained also in relation to the work of the joint committees.

In the UN framework, and in international law, in general, there is only a small number of legally binding instruments concerning the political representation of minorities. This frame mainly provides guidance and recommendations for states in order to handle minority issues properly, however, governments may decide, concerning numerous issues, on the exact measures secured for minorities residing in their country. It is also because of the fact that countries significantly differ concerning the number, character, situation and other aspects of residing minorities, although, the significant room for maneuver that is secured for countries in introducing proper measures favoring minority

groups often leads to neglecting their rights. In spite of that, even non-binding UN documents contain clear, useful and proper examples, offering practical means of political participation of minority groups that should be implemented, applied by governments. Introduction of these provisions and recommendations is, however, as mentioned, highly dependent on the policies of states that are followed towards national minorities, as well as on relations between the particular government and the national minority residing in the country. In addition, in most cases, implementation of favorable conditions for national minorities occurs only step-by-step and the realization of crucial changes often requires a significant amount of time in the majority of states.

### ***2.3.2. Organization for Security and Cooperation in Europe (OSCE)***

The "forerunner" of the Organization for Security and Cooperation in Europe, the Conference on Security and Cooperation in Europe (CSCE) was established as a multilateral forum for negotiation between Eastern and Western states during the detente of 1962-1979. One of the most important achievements of the CSCE was the signing of the Helsinki Final Act on 1 August 1975 focusing on a number of key commitments on politico-military, economic, environmental and human rights issues. The document has established ten fundamental principles in connection with States' behavior towards their citizens and towards each other, containing several general objectives on national minorities as well. However, the Helsinki Final Act and other CSCE documents did not include specific measures concerning national minorities. The turning point in this respect was the adoption of the *Concluding Document of the Copenhagen Meeting of the Conference on the Human Dimension* (Copenhagen Document) in 1990. The Copenhagen Document emphasized numerous innovative concepts in connection with the European minority rights regime as well, and at the end of the Cold War it largely affected the re-drawing of dividing lines in Europe. The CSCE/OSCE and the Copenhagen Document is a proper example for the security-related approach to the respect of minority rights. The Document constitutes a landmark and in some respects a starting point in the development of the European minority rights regime (Osipov, 2016, p. 1). Part IV of the Document deals specifically with the issue of national minorities. Focusing on the effective participation, *Article 35* declares that "the participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities";

furthermore, they “create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by establishing, as one of the possible means to achieve these aims, appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned”. *Article 32 and 33* highlights that persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts of assimilation against their will, and States have to protect and promote that identity. The text of mentioned articles indicates that the right to effective participation is aimed at protecting and promoting the minority identity, even though the justification of including minority provisions into the Document is the preservation of peace and security. This relates to the concept of peace and security of the OSCE, that it should be based on the respect for human rights, including minority rights (Verstichel, 2009, p. 204). The CSCE/OSCE and the Copenhagen Document is a proper example for the security-related approach to the respect of minority rights. Based on the view of the institution, preserving peace and stability in and among European states can be realized, inter alia, through the establishment of minority standards.

In addition, the Document highlights several important measures as equal and inalienable rights of all human beings, including minorities. These rights are closely connected to political participation as well, for instance: free elections and free expression of opinion; a representative form of government; respect of human rights and fundamental freedoms by law; right of citizens to take part in the governing of their country, either directly or through representatives freely chosen by them; respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and other provisions as well.<sup>17</sup>

Besides the Copenhagen Document, the *Report of the CSCE Meeting of Experts on National Minorities of 1991* deals specifically with the effective participation of minority groups. On the Meeting representatives of the participating States had a discussion on the issues of national minorities reflecting on their diverse situation and on the legal, historical, political and economic backgrounds. National minorities also

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<sup>17</sup> For the complete list see Article 5, 6 and 7 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE of 1990.

took part in the discussions on national legislation, democratic institutions, international instruments and other possible forms of co-operation.<sup>18</sup> The Report highlights that States should respect the right of persons belonging to national minorities to effective participation in public affairs, and when issues relating to their situation are discussed in these countries, national minority groups should have the effective opportunity to be involved. States also consider that appropriate democratic participation of persons belonging to national minorities or their representatives in decision-making or consultative bodies constitutes an important element of effective participation in public affairs (section III, para. 1). The Report also emphasizes that national minorities have the right to freely express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will (section III, para. 4). Participating States, according to the document, will create conditions for persons belonging to national minorities to have equal opportunity to be effectively involved in the public life, economic activities, and building of their societies, mentioning several positive results that have occurred in certain countries concerning the democratic involvement of national minorities. As an example, these included: establishment of advisory and decision-making bodies in which minorities are represented, particularly with regard to education, culture and religion; elected bodies and assemblies of national minority affairs; local and autonomous administration, as well as autonomy on a territorial basis, including the existence of consultative, legislative and executive bodies chosen through free and periodic elections; decentralized or local forms of government, and other important instruments (section IV, para. 7).

Although, the above mentioned instruments of the OSCE are not legally binding, similarly to the majority of the previously presented UN documents, they have provided a basis for certain, in the future formulated minority-related provisions that have been included into other international documents, as well as referred to by many European bilateral treaties on good neighborliness and cooperation.

As the “other documents” of the OSCE are also highlighted by bilateral treaties, at this point the work and certain established documents of the High Commissioner on

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<sup>18</sup> Official website of the then CSCE. Available at: <https://www.csce.gov/international-impact/publications/report-csce-staff-geneva-csce-experts-meeting-national-minorities?page=8>. (Accessed: 24 November 2019).

National Minorities (HCNM) are going to be shortly summarized. The institution of the HCNM has been established within the OSCE framework by the CSCE Helsinki Document of 1992 as an “instrument of conflict prevention at the earliest possible stage”, providing early warning and early action in regard to tensions involving national minority issues affecting peace, stability or relations between participating States (Chapter II, para. 3-4, also see Kemp, 1999). The HCNM plays an important role in facilitating inter-state relations in disputes on minority issues (as it was the case between Hungary and Romania in 1995-1996 and between Hungary and Slovakia in 2009). This diplomatic role explains also the importance of the general recommendations of HCNM as a source of normative standards. The HCNM collects and receives information regarding national minority issues from different sources (e.g. media and non-governmental organizations; specific reports from parties directly involved regarding developments concerning national minority issues); assesses the role of the parties concerned, the nature of tensions and recent developments, as well as the potential consequences for peace and stability within the OSCE area. It is important to note that it is not the mission of the HCNM to engage in all minority-related issues, but only in those which have security aspects and implications (Drzewicki, 2010, p. 260). In connection with the work of HCNM and the political participation of minorities, the *Lund Recommendations on the Effective Participation of National Minorities in Public Life* and the *Guidelines to Assist National Minority Participation in the Electoral Process* have to be highlighted as important instruments of the examined issue.

The Lund Recommendations, one of the thematic recommendations of the HCNM, has been published in September 1999 by the first High Commissioner Max van der Stoep. The General Principles of the document highlight, for instance, that the effective participation of national minorities in public life is an essential component of a peaceful and democratic society, and in order to promote such participation, governments often need to establish specific arrangements for national minorities (Part I, para. 1.). Recommendations cover two main areas: participation in decision-making in the government and self-governance. Through participation in decision-making it is recommended for States to initiate and set up special arrangements, for instance, secure reserved seats in parliaments for national minorities; allocate cabinet positions, seats on the supreme or constitutional court or lower courts, in advisory bodies or other high-level organs for them; take special measures for minority participation in the civil service (Part II, para. 6). Participation of minorities in the decision-making can be

realized through the harmonization of electoral process as well facilitating minority representation and influence. It is emphasized that on territories where minorities are concentrated territorially, single-member districts could provide sufficient minority representation. Furthermore, proportional representation systems, forms of preference voting or lower numerical thresholds could serve the mentioned purpose as well (Part II, section B). In general, it is noted that States should facilitate the participation of national minorities at regional and local levels, as well as establish advisory or consultative bodies in order to help the dialogue and consultation between the government and national minorities.

As the second crucial issue, Recommendations deal with self-governance, as far as the possible realization of effective participation of minorities in public life could, in several cases, be realized through non-territorial or territorial arrangements of self-governance. Non-territorial arrangements include, for instance, taking decisions over education, culture, use of minority language, religion and over other matters protecting the identity of national minorities. Under territorial arrangements local, regional, or autonomous administrations are meant that correspond to the specific historical and territorial circumstances of national minorities and that may undertake a number of functions, including education, culture, use of minority language, environment, local planning, natural resources, economic development, local policing functions, and housing, health, and other social services (Part III). The great importance and merit of the Lund Recommendations is that it brings together a wide range of forms of effective participation with potential applicability to national minorities. Previously, these forms were unknown to politicians and members of civil societies, but the Recommendations brought them together in order to demonstrate the opportunities for securing the effective participation of national minorities in domestic frameworks. The importance of the Recommendations also lies in the fact that this is the only document with an extensive list of different forms of participation of national minorities in public life. However, since the drafting of the document the situation has changed significantly, and several actors appeared on the international scene. For this reason, it is highly relevant for the HCNM to pursue consultations with these actors in order to work out a common interpretation concerning minority standards (Drzewicki, 2010, pp. 282-283). As far as the Lund Recommendations are a set of opinions by independent experts, they are not legally or politically binding, however, are based on binding international standards (Verstichel, 2009, p. 216). Not only this is the reason Recommendations should be

followed by States, but also because of two more essential aspects connected to effective participation. The first is that effective participation as a *substantive human right* translated to the demands of national minorities should be secured in democratic societies on a wide basis. The other aspect is that this human right has to be instrumental to the enjoyment of *other minority rights*, since without effective implementation of minority rights in education, use of language, access to media and other areas the proper level of minority participation cannot be achieved in different forms and at various levels of governance (Drzewicki, 2010, p. 284).

In connection with the Lund Recommendations it should be also stressed that the *Warsaw Guidelines to Assist National Minority Participation in the Electoral Process* of 2001 translate Lund Recommendations to a language of practical arrangements for the involvement of national minorities in the electoral process (Drzewicki, 2010, p. 270). The objective of Guidelines is to help effective participation of national minorities in public decision-making bodies by means of enhanced representation; inform all stakeholders of the options open to a state in giving effect to the Recommendations; provide advice on constitutional, legislative and institutional levels and to assist the OSCE participating States, and several other aspects (*OSCE/ODIHR Guidelines to Assist National Minority Participation in the Electoral Process*, 2001, p. 5).

According to the above, it could be observed that the objectives of referred documents or positions include similar to guidelines to be followed in connection with minority rights and effective political participation and representation of national minorities. Although, the highlighted instruments established in OSCE framework are not legally binding, the emphasized provisions may strengthen and support the dialogue between governments and minority representatives, as well as between states aiming to put an emphasis on the representation of national minorities in decision-making processes. Besides, these instruments, similarly to UN framework, also served and can serve as proper foundations for later documents and provisions on the issue.

#### **2.4. Council of Europe**

From the point of view of the examined issue it is the Council of Europe frame that is mostly referred to when dealing with the rights of national minorities, as certain documents on the issue already have binding effect that also have been emphasized by certain bilateral treaties named above.

In chronological order, firstly, the *European Convention on Human Rights* of 1951 should be emphasized, as an international human rights document defining certain standards of behavior and protecting basic rights and freedoms, the rule of law and promoting democracy in European countries. The Convention does not specifically deal with the political participation of minorities, however, similarly to a few previously mentioned documents, contains several provisions being exceptionally relevant concerning the political rights of minority groups. Both Article 1 and Article 14 of the Convention stress the general prohibition of discrimination based on sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Besides, the Convention contains several provisions being significant in realizing the respect of political rights and in securing the effective participation of minorities in public life. These rights largely cover the rights highlighted by the ICCPR as well, such as the *freedom of expression* (Article 10), *freedom of association and assembly* (Article 11), *right to vote and stand for election* (Protocol No. 1 to ECHR, Article 3), and *non-discrimination* (Article 14, Protocol No. 12 to ECHR). Although, the Convention does not contain a provision specifically naming national minorities, minority groups can bring cases before the European Court of Human Rights, as far as *Article 34* of the Convention gives the possibility of individual applications to the Court from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by the Parties of the rights set forth in the Convention or the Protocols.

Continuing with the documents, in Council of Europe framework has been established one of the most comprehensive treaties dealing with and protecting the rights of national minorities, having, presumably, the biggest importance from the point of view of present topic. The *Framework Convention on the Protection of National Minorities (FCNM)* was adopted by the Committee of Ministers of the Council of Europe on 10 November 1994, and entered into force on 1 February 1998. The aim of the document is to, inter alia, ensure the *effective protection of national minorities* and of the rights and freedoms of persons belonging to those minorities, within the rule of law, respecting the territorial integrity and national sovereignty of states, implementing the principles of the Convention through national legislation and appropriate governmental policies (FCNM, Introduction). In the examined basic and bilateral treaties establishing the joint committees, the Convention serves as a reference point; it is referred to by the document



as an important instrument to be followed. It is important to highlight that the Framework Convention supports the conclusion of bilateral and multilateral treaties between countries, particularly between neighboring states, in order to protect national minorities.<sup>19</sup> In other word, in case certain commitments have not been included into the bilateral treaties, it should be realized on the basis of the Convention. On the other hand, if the provisions of basic or bilateral treaties are stricter, these become legally binding, exceeding the level of the Framework Convention (Kovács, 1996, p. 159). The document aimed to protect a wide range of rights connected to minority identity in a conservative understanding, since on the talks and in procedures representatives and experts of governments participate and are not able to directly articulate the interests of minorities. In spite of that, it can be considered as a significant development that the document includes the respect of important rights crucial for minorities. However, it is a substantive loss of the document that the right to autonomy has not been incorporated because it met considerable opposition from the majority of states, although, it does not mean the denial of the mentioned right, it only attests to the actual level of the lowest common denominator (Kovács, 1997, p. 6).

Parties have undertaken to promote the full effective equality of persons belonging to national minorities in all areas of economic, social, political and cultural life in order to allow them to express, preserve and develop their culture and identity. Furthermore, States can translate the provisions of the Convention to their specific domestic situation through national legislation and governmental policies, and the word “Framework” refers to this character of the document as well.

Turning to the most crucial and straightforward article of the Convention concerning the issue, Article 15 declares that “The Parties shall create the conditions necessary for the *effective participation* of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them”. The relevance of Article 15 lies in the fact that after the Second World War, in general and in the legislative history of the FCNM, this provision meant a shift from paradigm from ‘national minority’ protection in the context of state sovereignty and the European nation state models to the management of ethnic diversity within and between states based on common values of integration and co-governance, in which national minorities

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<sup>19</sup> Article 18 (1): “The Parties shall endeavor to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighboring States, in order to ensure the protection of persons belonging to the national minorities concerned”.

can serve as bridges of peaceful cooperation (Marko, 2010, p. 223). It should be noted as well, though, that the language or formulation of the mentioned article is remote aiming at creating the conditions for participation, but not addressing the right as such. In addition, the conditions requirement is mandatory; Parties *shall* create those conditions (Thornberry, 1996, p. 38).

The *Commentary on the Provisions of the Framework Convention of the Explanatory Report* explains the above article further, and it highlights that Article 15 aims to encourage real equality between persons belonging to national minorities and the majority. The Commentary also emphasizes that in order to create the necessary conditions for such participation by persons belonging to national minorities, Parties could promote, inter alia, the following measures: carry out consultation with these persons, by means of appropriate procedures and, in particular, through their representative institutions, when Parties are contemplating legislation or administrative measures likely to affect them directly; involve these persons in the preparation, implementation and assessment of national and regional development plans and programmes likely to affect them directly; undertake studies, in conjunction with these persons, to assess the possible impact on them of projected development activities; realize the effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels; decentralized or local forms of government (section 80). In the wording of the Explanatory Report it is observable as well that the content is put more subtly, for instance, it appears in the wording that “Parties *could* promote” the mentioned measures that offers a wide range of opportunities, as well as a sort of conditionality.

The listed measures of the Commentary are corresponding to the above mentioned objectives of the UN and OSCE framework, and specific provision for minority consultative mechanisms have been also emphasized at the early stage of development of the right to effective participation in public life. For instance, the Copenhagen Document required that states should take the necessary measures to ensure due consideration, including contacts with organizations or associations of minorities, in accordance with the decision-making procedures of each state (Committee of Experts on Issues relating to the Protection of National Minorities (DH-MIN), DH-MIN Handbook on Minority Consultative Mechanisms, prepared by Marc Weller, p. 3). It has to be noted as well that FCNM and the Thematic Commentary refer to “*rights of persons belonging to national minorities*” from which it is obvious that effective

participation through political representation mechanism, as well as full and effective equality cannot be realized without the group dimension, because an individual cannot be represented in the parliament which means that Article 15 of the FCNM, and the provisions of other instruments, cannot be implemented with a certain degree of group orientation (Marko, 2010, p. 225).

Several other articles of the FCNM are also in close connection with political representation of minorities. Article 4 (2) notes that Parties should promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and the majority, and in this respect, they shall take due account of the specific conditions of the persons belonging to national minorities. The article connects the promotion of effective equality with effective political participation of minorities because these concepts and aims cannot be carried out separately: effective equality enables minority groups to take part in decision-making as “equal players” in politics, and the realization of effective political participation assumes the presence of effective equality. According to the Explanatory Report, paragraph 2 of the Article 4, the promotion of full and effective equality between persons belonging to a national minority and majority may require that Parties adopt special measures that take into account the specific conditions of the persons concerned, and that such measures need to be “adequate”, that is in conformity with the proportionality principle, in order to avoid violation of the rights of others as well as discrimination against others (section 39).

Article 5 of the Convention states that Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage. It continues that Parties shall refrain from assimilatory policies or practices of national minorities against their will, and shall protect these persons from any action aimed at such assimilation. The Explanatory Report adds, *inter alia*, that the social cohesion of the society is of crucial importance, and reflects the desire that cultural diversity could be not a factor of division, but of enrichment to each society (section 46).

Furthermore, Article 6 (1) declares that Parties shall encourage a spirit of tolerance and intercultural dialogue, promoting mutual respect, understanding and co-operation among all persons living on their territory, irrespective of ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media. The

intercultural dialogue and cooperation among the citizens encourages, notably secures the presence of effective participation of minorities, as far as it creates a non-discriminatory basis for the protection of minority rights. The Explanatory Report of the FCNM comments on the mentioned article that in order to strengthen social cohesion, the aim of this paragraph is, inter alia, to eliminate barriers between persons belonging to ethnic, cultural, linguistic and religious groups through the encouragement of intercultural organizations and movements which seek to promote mutual respect and understanding and to integrate these persons into society whilst preserving their identity (section 49).

The topic of effective participation of minorities is the subject of the *Thematic Commentary No. 2 of the AC of the FCNM of 7 February 2008* entitled "*The effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs*" as well. The Commentary focuses on the instruments that can serve both the legal guarantee and the political facilitation of minority representation. It has to be pointed out that it does not prefer any of the mentioned instruments because their practical impact depends on the different social and political preconditions of each country and each minority. However, the Commentary has a dual role: it serves as an internal tool for the AC to improve its opinions and as an external instrument for the dissemination of better understanding of the practical implications and principles of the FCNM by governments, minority leaders, minority rights activists and other actors (Palermo, 2007, pp. 418, 423). The Commentary examines, inter alia, the core considerations on Article 15 of the Framework Convention, regarding it as a central provision in many respects, for instance, in connection with the degree of participation of persons belonging to national minorities showing the level of pluralism and democracy of a society. Besides, effective participation of persons belonging to national minorities is also crucial for enhancing social cohesion, as far as keeping national minorities on the periphery of society can lead to social exclusion and tensions among groups. The Commentary highlights the importance of Article 15, because it creates an obligation for States to be realized, however the most appropriate means to reach this aim are left to their margin of appreciation (section 8-10).

It is interesting that the Commentary sees the relation between Article 15 and Articles 4 and 5 particularly important, as the three corners of a triangle forming together the main

foundations of the FCNM (section 13). Article 4 implies the right of equal protection of the law and before the law, as well as the right to be protected against all forms of discrimination based on ethnic origin and other grounds, ensuring that persons belonging to national minorities and the majority has equal opportunities in various fields. Article 5 implies the above mentioned obligation of States in order to effectively guarantee their right to identity (section 14). The Commentary continues to emphasize that the participation in public affairs is particularly important not only to ensure that particular concerns of persons belonging to national minorities are taken into account, but also making it possible for them to influence the general direction of development in society (section 17). Considering the effectiveness of participation, the document highlights that it cannot be defined and measured in abstract terms. Not only the means which promote full and effective equality for persons belonging to national minorities have to be taken into account, but their impact on the situation of the persons concerned and on the society as a whole as well (section 18). Securing the formal participation of minorities is not sufficient, as it was already mentioned several times, but they have to be influential on decisions which are taken in the given State requiring both capacity building and resources to ensure that their representatives can contribute to it effectively (section 19, 21).

The Commentary examines various forms of effective minority participation as well. In the legislative process minorities could be represented through political parties ensuring that these parties representing or including persons belonging to national minorities have adequate opportunities in election campaigning, providing opportunities to use minority languages (section 77). The design of electoral systems at national, regional and local levels has to be set up properly in order to represent minority concerns. This can be realized through securing the presence of minority representatives in elected bodies, through the inclusion of their concerns in the agenda of elected bodies, with exemptions from threshold requirements, with effective implementing legislation, with participation of minorities in local elected councils or with the help of alternative channels (see section 80-87). Furthermore, political representation of minorities can be realized through the reserved seats system; through special parliamentary committees to address minority issues, especially in the process of drafting or amending legislation concerning national minorities; through minority veto rights over draft legislation directly affecting them. Furthermore, proper citizenship requirements, including

language are needed in order to affect the effective participation of minorities positively (section 91-102).

Besides legislative process, the Commentary mentions specialized governmental bodies, set up by States, not substituting but complementing national minorities' consultative mechanisms. These consultative mechanisms do not constitute a sufficient mechanism for ensuring effective participation of minorities, but States have to be obligated to consult them on regular basis, so that consultative bodies would have legal personality (section 116-119). Continuing with autonomy arrangements, the Commentary highlights that although the FCNM does not secure the right of national minorities to territorial or cultural autonomy, in those States where territorial autonomy arrangements exist they foster the more effective participation of persons belonging to national minorities in various areas of life (section 133-137). As it is highlighted, the Commentary offers various ways of minority representation, however, measures adopted to fulfill this aim on the level of the government, e.g. ministries specializing in minority issues, as well as rather informal measures such as round tables, do not seem to display any clear characteristics regarding factors for determining a specific choice (Frowein and Bank, 2001, pp. 27-28).

The Framework Convention, being one of the milestones as a legally binding document for European states concerning minority rights, including the rights to political participation of minorities, aims to improve the effective protection of minorities. Despite the fact that the implementation of provisions of the document and its monitoring mechanism faces several difficulties and has certain omissions, it serves as a useful tool and a proper reference point for national minorities in order to improve their situation and achieve a number of objectives being crucial for the preservation of their identity and for the respect of their rights.

In summary, based on the above documents, it can be observed that in the international sphere the general framework of political participation of minority groups is not lacking. However, a significant proportion of the highlighted documents are not legally binding, and actions and areas for implementation have largely been formulated in the form of recommendations, statements, and conclusions. Despite this, in the Council of Europe framework it can be observed that through the implementation of legally binding provisions in the FCNM on the political participation of national minorities, the body considered it necessary to secure the aforementioned rights, among others, for the

mentioned groups. Other documents of a non-binding nature define potential paths for the achievement of effective political participation for national minority groups, summarizing not only the positive outcomes of creating participatory mechanisms for national minorities, but also specifying the means of achieving the aforementioned aims. As previously stressed, states always have the opportunity to put stronger emphasis on these objectives, being able to make them compulsory provisions rather than recommendations (Tóth, 2020). The bilateral treaties establishing the committees on national minorities between Hungary and its neighbors have incorporated the aforementioned multilateral documents, thereby strengthening their objectives, including aims in connection with the political participation and representation of national minorities. In Chapter IV, the six committees are examined more deeply, and in Chapter V the realization of effective political participation and representation of national minorities in committees is analyzed, with a focus on whether the objectives of the referred-to multilateral and bilateral establishing documents are implemented in practice, or if they remain valid only in theoretical terms.

After reviewing the basic legal framework and background of political participation, in the following chapter the examination turns to a closer analysis of the particular groups and areas of research – to the national minorities in Central Europe.

## **Chapter 3: THE ISSUE OF NATIONAL MINORITIES**

### **3.1. National minorities in bilateral relations**

This thesis focuses on specific Central-European national minorities associated with Hungary and its neighbors who participate in the work of the bilateral committees set up between the former states (as presented in the following). It is thus crucial to deal with the mentioned group – with national minorities in Central-Europe – using a more general framework that highlights particular aspects of the topic.

National minority issues and the protection of minority rights can be dealt with and realized through different frameworks and methods – namely, by multilateral, bilateral, and state-level solutions. The multilateral framework established for the protection of the rights of national minorities provides, concerning many crucial areas, an adequate basic context. The former chapter of the thesis presented specific instruments that were established at a multilateral level, since the importance of multilateral binding commitments and aims, and non-binding measures and recommendations about minority issues should primarily be taken into consideration. However, it also should be noted that multilateral provisions necessarily generalize the position of national minorities, handling their situation and background similarly in every country, irrespective of the differing status of the latter. This means that, although established multilateral frameworks on minority issues constitute a proper reference point when dealing with the topic of national minorities, the specific character and needs of the latter should also be taken into account, which often requires additional and more specific methods and solutions. Consequently, on a bilateral and state level, the actual situation, problems, and objectives of national minorities can be more accurately identified and addressed, thus states are better able to formulate more definite provisions and lines of conduct to protect their rights effectively. The majority of international recommendations confirm that national minority issues should be managed by the state in which the minorities reside, for the reasons highlighted above. In fact, it cannot be neglected that countries can, or should be able to, secure an adequate level of protection for the national minorities residing in the country. However, it also should be added that the bilateral frameworks for the protection of national minorities that are established through the conclusion of bilateral agreements are associated with significant advantages. On the one hand, they may combine the involvement of certain



provisions, objectives, and fundamental exemplary principles of the multilateral framework with the sufficient insight and specific nature of the state-level approach. On the other hand, states that aim to regulate and solve national minority problems between each other have the opportunity to unite their ideas and views, as well as resources of any kind, in order to implement a well-functioning system or method for the protection of the national minorities living in their countries, or for each other's national minorities. It is also well known that minority issues are often a source of conflict between countries. However, creating common solutions may facilitate and strengthen a cooperative attitude in relation to other areas. This situation arose in relation to the complex reality that emerged following the democratic transition in CEE states (Gallagher, 1998). Furthermore, the principle of reciprocity – i.e. that it is very likely that state A will deal similarly with the national minority of country B residing in state A to how country B will deal with the national minority of country A living in country B – suggests that a sort of political binding force could arise that leads to the implementation of minority provisions on both sides being beneficial for national minorities. At this point, the principle of reciprocity and the limitations of the bilateral approach should be taken into consideration, because in some cases parties are not able to solve their problems and disputes bilaterally, without intervention from the international community. Concerning the rights of national minorities, the international community should be more proactive in enforcing the human-rights-related norms related to minorities. It should be noted that kin-states are self-interested, and their involvement in the lives of their minorities living in other countries often leads to conflict. On the other hand, if international bodies are inactive, kin-states become the only actors who try to enforce specific international norms related to minority rights, because they have a stake in such matters (Fiala-Butora, 2019, p. 259).

According to Fiala-Butora, some bilateral conflicts may be avoided through the more proactive enforcement of human-rights-related norms by international bodies – for instance, an international court that enforces minority rights through the individual petitions of victims is a good example of a mechanism that may decrease the need for kin-state involvement (Fiala-Butora, 2019, p. 260).

Furthermore, the bilateral approach could also be emphasized because, in many cases, internal tensions are the main source of conflict. It should be noted that only a few international conflicts or international relations are truly international in nature, and

these are often the international reflections of internal tensions that demand a new approach to conflict prevention on a bilateral and multilateral level. When minority claims remain unaddressed for a long time, this has a serious destabilizing effect on international relations (Fiala-Butora, 2013, p. 184). The practice developed by the first HCNM, Max van der Stoep, clearly reflected the potential dilemmas of international actors in this regard. The mandate of the HCNM was intended to be a diplomatic position aimed at preventing conflict through enhancing constructive dialogue between two states. However, Van der Stoep realized very early on that problems related to minorities and inter-state disputes are often rooted in the inappropriate implementation of minority rights. Accordingly, he and his office developed the role of a “normative intermediary” that created a mandate for communicating norms and persuading states to comply with them (Kemp, 1999, pp. 25-26).

On the other hand, multilateralism has advantages compared with bilateral or unilateral approaches if such a mechanism is used in practice. Putting it simply, when international bodies find a solution for a specific minority issue in a given country, or for a problem between two states, and they pressure states to adopt meaningful policies that support minorities, this makes bilateral involvement unnecessary. In the opposite case, it does not make much sense to prefer multilateralism over bilateralism, and states should not count on the involvement of international bodies (Fiala-Butora, 2013, p. 188).

However, Alfredsson has emphasized that it can also occur that bilateral agreements with minority standards reduce or circumvent international or regional standards that prescribe stronger protection, thus perpetuate the prevailing political approach. Furthermore, bilateral agreements do not require incorporation into national law, and do not offer a means of achieving legislative consistency, judicial enforcement, or bilateral monitoring procedures (Alfredsson, 1999, p. 169).

A very crucial point when examining the deficiencies of bilateralism is the perspective of the national minorities themselves. It is often presumed that the minority's interests are the same as those of the kin-state; however, this is not absolutely true, since kin-states, homelands, and minorities have their own goals (Fiala-Butora, 2013, p. 189). Furthermore, it should also be taken into account that the representatives of minorities may have not been involved in the preparation or been consulted about the content of

bilateral agreements.<sup>20</sup> In addition, it would also be an interesting issue to understand how many of the governments concerned concluded bilateral agreements out of concern for minority well-being, rather than for reasons of domestic politics (Alfredsson, 1999, pp. 170-171).

A bilateral approach can be useful if it is aligned with international support; in other words, the international community should support bilateral activities that are in line with their own commitments, which include achieving long-term peace and stability (Alfredsson, 1999, p. 194). The above-highlighted reciprocity between states on which bilateralism rests (concerning, for instance, the issue of national minorities), is very unfavorable for small minorities. On the one hand, it elevates their concerns to that of the level of more numerous minorities; on the other hand, the needs of smaller and larger minorities can also be very different. “Reciprocity is not absolute, but an unreasonably dissimilar standard for minorities in different countries would be hard to argue for. A similar standard, however, will always be less advantageous for the smaller minority that can make less use of it simply for demographic reasons. Their different situation requires different answers, which the bilateral process based on reciprocity is unable to provide” (Alfredsson, 1999, p. 192).

In spite of the fact that bilateral cooperation, similarly to other methods, has its disadvantages and its success is based on several factors, it may also represent a sufficient framework for dealing with the issues of national minorities in Central Europe. In practice, as previously highlighted, bilateral cooperation is mainly defined by the nature of political relations between countries, as well as between the given national minority and the home state, and the national minority and their kin-state. Constructivist theory strengthens the view that interactions between players and structures constantly change, and structures always develop, thereby altering the behavior of actors. This means that the character of bilateral relations and relations of states towards their own and other national minority groups strongly defines the opportunities for cooperation concerning minority issues, as well as other areas. The character of bilateral relations may from time to time change; however – as is also highlighted by constructivists –, as it is largely based on history, on past events, as well

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<sup>20</sup> The elaboration and signing of the Hungarian-Romanian treaty on good neighborly relations in 1996 was a clear example of how the two governments were able to ignore the views and arguments of minority representatives regarding the minority-rights provisions of the treaty. See in detail: Szabó Tamás (2020): A román–magyar alapszerződés megkötése és az RMDSZ szerepe. In: Vizi B. (ed.): *Magyarország és szomszédai. Kisebbségvédelem a kétoldali szerződésekben*. Budapest, L’Harmattan, (in print)

as on the nature, motives, interests, actions, and attitudes of states in given political contexts. Putting it more simply, the actual actions of states are based on their political identities, which are defined by the attributes emphasized above. When identities change, the nature of relations may also be altered, helping or hindering bilateral cooperation between states, as well as between national minority groups residing in the country, and between the kin-state and its own national minority residing in other states. Furthermore, as constructivist scholars have stressed, the interest formation of a state is social and is defined by social factors that, to a large degree, influence the formation of bilateral relations. Important social factors include, for instance, historical and political events, and the formation of political relations in the past that strongly determine the present relationship between central European countries. Constructivism refers to these phenomena as the historical construction of national interests. The formation of bilateral relations, as emphasized in next chapters of the thesis, similarly to other issue and areas, strongly influences the success of the work of intergovernmental committees on national minorities, and the nature of relations between the given state and national minority groups. Prior to the referred-to investigation, the next section of the thesis analyses the specific groups as well as the respective area of investigation, the national minorities in Central-Europe, more broadly.

### **3.2. National minorities in Central-Europe**

As is widely known, nations and states rarely coincide exactly, and in all countries many nationalities and minorities reside; even when such minorities constitute only a small proportion of the society of particular states, they are present. In this context, reversing the above statement, the nationals of many nations with a kin-state in Europe also live in different states (home or residing states) – a statement that is particularly true of the examined region, Central Europe.

The term and the region “Central Europe” have been defined by historians and other scholars differently, a situation that will not be comprehensively analyzed in the present research. It should be noted, though, that in the present author’s understanding, Central Europe refers to an ‘intermediate region’ that extends eastwards from the line of the Elbe and Leitha to the Orthodox religious territories, in line with to the model of Jenő Szűcs and Péter Hanák (Szűcs and Hanák, 1986; Szűcs, 1983). The territory became detached from Western Europe at the end of the middle ages, because of external conquests. Thereafter, the aim of this region has been to “catch up” with the West,

although, in general this has not occurred. After the Second World War, the territory remained with almost the same borders as before, having relations with the Eastern European region, although orienting itself towards the West (Bottoni, 2017). The interpretations and definitions of the Central European region are extensive, but the latter have a few characteristic features – for instance, the delineation of the borders of the territory vary; nationalist/nation-centric and anti-nationalist/supranational perspectives prevail in parallel or even separately; the multiethnic and culturally pluralist character of the region has received renewed attention; it is interpreted as an intermediate region oriented towards Western Europe, yet maintaining relations with the East, thus is also characterized by detachment (Tolcsvai, 2017, p. 53.). According to the vast majority of experts who deal with the definition of Central Europe, the region cannot be defined in a geographical sense alone, but other features should be taken into account. The CE region can be best described through reference to history, culture, politics, sociology, psychology, and by several other areas as well, although the length and scope of the present research does not permit dealing with these issues in depth, and nor is this the focus of the thesis. Presently, the term Central Europe is used in the above-mentioned sense and scope, focusing mainly on its cultural and linguistic diversity, multi-layered nature, multilevel identity, the presence of many nations living next to each other, and on cooperation among neighboring CE countries.

The historical and political events of past decades and centuries have greatly influenced the present make up of CE societies and the majority-minority relations of the given countries. Several ethnic groups or kin minorities<sup>21</sup> live outside their kin-state, mostly in neighboring countries, yet belonging to the same nation as that of the kin-state.<sup>22</sup> Referring back to Brubaker's triadic nexus (presented in Chapter I as a theoretical background to this issue), Central Europe probably serves as the appropriate area in which the relationship between national minorities, nationalizing states, and external national homelands can be observed and analyzed. As Brubaker highlighted, through the three actors (described above), three different nationalisms are pursued, although the

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<sup>21</sup> The term kin minority was first used in the Venice Commission Report on the Preferential Treatment of National Minorities by their Kin-State (CDL-INF(2001)019-e, Venice, 19-20 October 2001), Historical background, Part A: 'The concern of the "kin-States" for the fate of the persons belonging to their national communities (referred to as "kin-minorities") who are citizens of other countries ("the home-States") and reside abroad is not a new phenomenon in international law.'

<sup>22</sup> On several issues connected with kin-states and national minorities see e.g.: Brubaker, 1996; Kymlicka, 1995; Kántor et al (eds.), 2004; Bauböck (ed.), 2010; Ieda (ed.), 2006.

three actors closely interact with each other (Brubaker, 1995, pp. 4-5). In CE countries, there are basically two waves or concepts for dealing with the issue of the nation. In political terms, shortly after the breakdown of totalitarian regimes, new states were created of and for nations, and state-building served (as well as was considered as) nation-building. In other words, this wave promoted the view that the state and nation broadly overlap, and states shaped their policies based on nationalist tendencies. The second view that was characteristic in more or less consolidated democracies was that states refined their national politics and followed the ethnocultural conception of the nation, meaning that national states recognized that they are multinational or multiethnic states in which, besides the majority society, minority groups also reside. This view “legalizes” the link between kin-states and their co-nationals living abroad, supporting them through several means. This approach does not follow the political conception of a nation in highlighting the special relation between the kin-state and its co-nationals in (mostly) neighboring states (Kántor, 2006, pp. 38-39). The majority of CE states support the ethnocultural concept of nation by extending their borders in specific ways (Kántor, 2006, p. 51).

When dealing with minorities and nationalism, the differentiation of Rogers Brubaker (referred to in Chapter I) is used as a proper framework and explanation of the relations between minorities, kin-states and neighboring states, and as a crucial additional explanatory framework for the research. The triadic nexus and linking between national minorities and the nationalizing states in which minorities reside, and the external national “homelands” to which they by ethnocultural affinity belong, strongly determine relations between Central European neighboring countries.

In connection with the above, Kovács highlights that in Central and Eastern Europe it is characteristic that in neighboring countries (in homelands and in kin-states) historical events are evaluated and interpreted differently, serving as a foundation for the emergence and survival of clichés, stereotypes, and myths. This is mainly because the teaching of history fails to create a proper picture and accurate knowledge about the history and past events of neighboring states and nations, leading to hysterical states of mind and various frustrations among the given majority and minority groups. The frustration of minorities may thus be traced back to outstanding historical events, and to the latter’s once dominant position or power. Frustration is strengthened by minorities’ present subordinate position, by the incomprehension of this fact by the majority, by

multiple undelivered promises, different provocations, and other means. The frustration of the majority is often derived from memories about a “beaten” position in the past, from the grievance that the minority does not show similar affinity to the majority culture as to their own, and due to the tension that the state has to accept minority protection mechanisms due to the strict pressure of international bodies (Kovács, 1996, pp. 179). In summary, the frustration of the minority frustrates the majority, and incomprehension on the part of the majority strengthens minority frustration. Constant provocations and humiliations may move minority policy in a radical direction, and its counter pole becomes the antipathy of the centralizing state towards issues connected with national minorities. Thus, mutual frustration generates a vicious cycle and a dialogue of the deaf (Kovács, 1996, pp. 179).

The above-emphasized conflictual relations between national minorities, home states, and kin-states may be deepened if a given kin-state aims to protect the interest of its nationals in the home state through different means and policies, as is typical. These attempts or successful protective measures on the part of kin-states cause tension between the two countries in many cases. However, there are positive examples (see Germany/Denmark; Italy/Austria) that prove that relations between kin-states and home states can become constructive, and that the latter parties can cooperate towards the protection of minority rights if they are respected by the respective home states. In other words, the actual form of involvement mainly depends on the approach of the host countries that is pursued towards minority groups, as well as on the nature of relations between the two countries. It also occurs that kin-states, irrespective of the politics followed by home states towards its minorities, support the former groups financially or by other means – which action is, in most cases, welcomed, or at least not opposed by the home state. According to Kardos, four types of action can be taken by a kin-state in favor of its kin minority: action in the context of international bodies and mechanisms; action in co-operation with the home state; action *vis-à-vis* other states; and domestic legislation related to the relationship with its kin minority (Kardos, 2006, p. 130).

It also should be emphasized that a given national minority of a home state, or minority political actors, are able to make claims and represent their collective interests not only towards the home state, but towards kin-states as well. In this sense, it is not only the kin-state that may seek to provide for its national minorities, but these groups also have the opportunity to turn to the kin-state for different forms of support. Many national

minority communities in Europe have become subjects of, and active participants in, two ongoing and inter-related processes of externalization: the first is deeper integration into an expanding network of European-level institutions; the second is the cross-border expansion of national political communities through external citizenship and voting rights offered by neighboring kin-states (Waterbury, 2017, p. 228). In other words, this means that Central European national minorities have, in theory, certain opportunities to represent their interests: on the one hand, they are able to turn to the home state or residing state; and on the other hand, to their kin-state, as well as to European institutions, such as the European Union or the Council of Europe.

However, as will be highlighted in the present and following chapter, bilateral treaties and provisions dealing with the issues of national minorities can in many cases be the most useful instruments for defining the main political commitments to be pursued by the kin-states and home states in connection with each other's national minorities. As long as the objectives of bilateral treaties are realized, this can reduce the tensions between the Parties in the long-term, enabling national minorities to enjoy their rights more extensively. Furthermore, the examined bilateral treaties that establish joint committees between two countries also secure the opportunity for the representatives of national minorities to promote their interests and participate in decision-making processes about some of the issues that affect them.

Although the six bilateral treaties that are analyzed more broadly in the following were concluded only in the 1990s, the aim of states to provide several types of rights for kin minorities emerged during approximately the same period as the issue of minorities itself. On religious grounds, this was exercised as early as the seventeenth and eighteenth centuries. Subsequently, in the nineteenth century, the nationalism of modern nations started to spread, changing the prevailing system, but minority rights and minority protection on an international level appeared only after the First World War, as previously mentioned. The period after the Second World War slowly brought about several crucial changes in the lives of national minorities, but only at the level of individual human rights, since the collective rights of minorities were not recognized (Thornberry, 1996, pp. 135-137). In the mentioned period, the sense of responsibility different states felt for their co-nationals living outside the borders did not disappear, although the aim of providing for national minorities living in other states was only regulated in several states by international and bilateral treaties and agreements, at least



in the initial phase after the Second World War (Thornberry, 1996, p. 256). After the war, international protection for human rights started to be developed mainly in the frame of the UN, with a focus on anti-discrimination measures and general human rights. Moreover, specific international norms on minority protection were not developed until the adoption of the International Covenant on Civil and Political Rights of 1966. In addition, after the Second World War several states began to realize that numerous issues should and could be solved bilaterally, including minority issues. The short history and background of the conclusion of such bilateral treaties is presented below – it is only noted here that these bilateral agreements somewhat replaced the lack of political commitments and the establishment of international minority protection framework, at least in countries that implemented the provisions of bilateral agreements on national minorities in practice.

### **3.3. Minority issues in CEE after 1989**

Political changes in Central and Eastern Europe in 1989 constituted the next phase of the history of taking responsibility for kin minorities and accounting for the protection of their rights on a higher level. In the mentioned period, numerous minority issues were publicly named and defined. After the collapse of the Soviet Union, nations and national emotions that had been oppressed for a long time were re-evoked. The significant problems this created led to the establishment of a multilevel international system under the aegis of European organizations. It also should be taken into consideration that the mentioned events and democratic regime change occurred in a region where ethnic minorities constituted, and still constitute, a significant proportion of the population, and where their aims, situation, and problems were for many years neglected. Furthermore, the bipolar system ceased to exist, and the effects of globalization and European integration affected the thinking of decision-makers, while the framework of nation-states gradually started to weaken in some countries as well. In several states this also meant that decision-makers with strong national feelings assumed that they were entitled to create their own support systems and to provide for their nationals living abroad (Thornberry, 1996, p. 257). The bilateral treaties that were concluded between European – including Central European – states also incorporated the issues and protection of their kin-minorities living abroad. These documents are often called ‘treaties on good neighborly relations and friendly cooperation’ and deal not only with national minorities, but encompass a wider range of issues between states.

Moreover, for CE countries it has not been uncommon that separate bilateral treaties also focus only on those issues related to the protection of national minorities. In bilateral treaties between CE countries, several of the objectives of international documents that deal with minority protection were also incorporated, and, as already emphasized, the above-mentioned triadic nexus of Brubaker has and should incorporate a fourth element – the role and aims of international institutions. These institutions may not be omitted in either the wording of bilateral treaties or the general considerations of CE states when they deal with a wide range of political and economic issues.

Besides bilateral treaties, most Central European and European constitutions also contain provisions related to the protection of kin-nationals living outside the border. For instance, Article D of the *Fundamental Law of Hungary* of 2011 declares that Hungary “shall bear responsibility for the fate of Hungarians living beyond its borders, shall facilitate the survival and development of their communities, shall support their efforts to preserve their Hungarian identity, the effective use of their individual and collective rights, the establishment of their community self-governments, and their prosperity in their native lands, and shall promote their cooperation with each other and with Hungary”. The constitutions of other countries follow almost the same wording and establish a duty for the state to take care of communities residing abroad who share the same national identity with the majority population of the country. However, most constitutions distinguish between nationals living in a state who possess citizenship of another home state, and those who share the same nationality with that of the home state, but do not have citizenship of the country. In terms of the presently examined neighboring states of Hungary, all the six constitutions highlight the importance of the protection of their national minorities, or at least promote their ties with the homeland.<sup>23</sup>

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<sup>23</sup> The *Constitution of the Republic of Croatia* of 1991, Article 10: ‘The Republic of Croatia shall safeguard the rights and interests of its citizens living or residing abroad, and shall promote their ties to their homeland. The Republic of Croatia shall guarantee particular care and protection to those portions of the Croatian nation in other countries’. The *Constitution of Romania* of 1991, Article 7: ‘The State shall support the strengthening of links with the Romanians living abroad and shall act accordingly for the preservation, development and expression of their ethnic, cultural, linguistic and religious identity, with the observance of the legislation of the State whose citizens they are.’ The *Constitution of the Slovak Republic* of 1992, Article 7a: ‘The Slovak Republic shall support the national consciousness and cultural identity of Slovaks living abroad, shall support their institutions established to achieve this goal and their relations with the homeland.’ The *Constitution of the Republic of Slovenia* of 1991, Article 5: The state ‘shall maintain concern for the autochthonous Slovene national minorities in neighboring countries and for Slovene emigrants and workers abroad and shall foster their contacts with the homeland.’ The *Constitution of Ukraine* of 1996, Article 12: ‘Ukraine provides for the satisfaction of national and cultural, and linguistic needs of Ukrainians residing beyond the borders of the State.’ The *Constitution of the Republic of Serbia* of 2006, Article 13: The Republic of Serbia shall protect the rights and interests of

This “promotion of ties” is not always welcomed by the home state for several reasons, as noted above, and the most crucial of these reasons, as will be seen in the following, is the issue of security, as well as the approach of the newly independent states in the 1990 that is seen to hinder nation and state-building efforts. Accordingly, the leadership of some newly independent or newly established Central European states after 1989 neglected, to different degrees, respect for minority rights, as well as aimed to hinder the growth of the given national minority community in the country, or tried to assimilate them into the majority society, considering these groups as dangerous to the unity of the state and, as mentioned, as a barrier to their successful state-building.

### **3.4. State- and nation-building in specific Central European states after 1989**

The regime change of 1989 and the collapse of the Soviet Union initiated a process of state-building in Central and Eastern Europe in emerging states that not only defined themselves as non-communist and democratic, but also aimed to establish nation states grounded on national values, history, common views, and other features. The main aim of the political elites in the new states was to establish and legitimize state authority through organized and competitive elections, to obtain recognition as political units of international law, and to assert the sovereignty of the state, as well as ensure national security and stability (Culic, 1989, p. 38). In these newly dependent nation states, it was characteristic and highly significant that the “systems” and society were built on the titular nation, and that the majority and the language and culture of that titular nation was promoted and supported by the authorities to a large degree. Therefore, most of the states that declared their independence after the fall of the communism and engaged in a democratic transition defined themselves as both democratic (nation) states vesting power in the people (citizens), as well as national states or nation states created of and for the protection of one specific nation. New political elites tried to dissociate themselves from the former communist leadership, ideology, and political structures, while also struggling to preserve and emphasize those elements of national history that supported an independent and democratic existence. For the newly independent states, this meant the “recovering” of historical events of national statehood that could demonstrate the legal continuity of their states, as well as promote those elements of

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its citizens in abroad. The Republic of Serbia shall develop and promote relations of Serbs living abroad with the kin state.’

nationhood that the nation had been deprived of, or which had been altered and neglected during the communist era: namely, language, territory, resources, and citizenship (Culic, 1989, p. 40). Thus, post-communist state building can also be considered as a form of nation-building that focuses on the majority, titular nationals of the given country. As emphasized in connection with some CE states, state and nation-building in some states resulted in growing disagreement between the majority (the titular nation) of the newly dependent state and the minorities residing in the country, sometimes even leading to hostile attitudes towards minority groups for reasons some of which are highlighted in this section. Referring to Brubaker's triadic nexus, as presented above, which highlights the different and mutually antagonistic nationalisms of such parties – of national minorities and home states – this situation could clearly be observed during the nation- and state-building of certain Central European states, as described below. As already mentioned, the nationalist efforts of newly established CE states in many cases resulted in the neglect of national minority rights and the aspirations of home states to assimilate these groups into the majority society. In line with Brubaker's theory, it is the core nation that sees itself as being the legitimate owner of the state; that is, the state of the core nation, of the majority. Furthermore, these efforts are often accompanied by antagonistic attitudes by members of the home state towards national minorities, as well as towards their kin-states.

These negative feelings of the majority – or rather, of the new non-communist leadership of the new states – were mainly rooted in a fear of minorities as actors with the potential to destroy the “unity” or national characteristics of the newly established states. Furthermore, the former assumed that some minorities with kin-states (mostly neighboring states) were aiming to cooperate with these states to cause harm to or foster separatist goals towards the other, newly created state. Therefore, minorities were often treated as a security threat (Dunay et al (eds.), 1995; Gurr and Harff, 2000; Kardos, 2007, pp. 8-36) in the new states, as dealt with more widely with in the present chapter of the thesis. The situation also meant that any kind of support from the kin-states towards their ethnic kin minority residing abroad – even in the form of financial or economic help, expanded citizenship rights, etc. – was regarded with suspicion in the new state and, in most cases, considered as a form of intervention in internal affairs (see among others Kardos, 2006; Iordachi, 2004).

On the other hand, the reason some newly established states neglected minority issues was their aim of “uplifting”, creating, or promoting their national identity and history, as well as justifying their legitimate existence and the establishment of the new state.

During the build-up of nationalist politics during the construction and consolidation of the national states of former communist bloc countries, some main elements can be identified: the existence of the core nation or nationality as defined in ethno-cultural terms and distinct from the citizenry or population, as well as permanent residents; the idea that the core nation legitimately owns the polity of and for the core nation; the perception that the core nation’s specific interests are not adequately realized or expressed and that specific action is required to promote their language, traditions, culture, demographic dominance, economic welfare, and political hegemony; that justification of such policies is based on the need to compensate for previous discrimination against that nation; and that mobilization should occur based on these ideas to shape the policies and practices of the state and to adopt policies on these lines (Brubaker, 1996, pp. 415-416). This also means that in the newly independent countries state-building took place within a modern framework of statehood and international relations, according to the modern principles of territoriality and sovereignty. New states were defined as states *of* and *for* a nation; therefore, state building was conceived as a vigorous form of nation-building (Culic, 1989, p. 57).

In the following section, a short summary is presented, and specific aspects of state-building activities are highlighted in connection with the state and nation-building efforts of some of the states analyzed here after the regime change. These processes may be considered crucial and determining features in the sense that they strongly affected the attitude of newly established states towards minorities residing in the country, as well as the bilateral relations between countries, and these attitudes and policies are still largely prevalent today. As the dissertation focuses on Hungary and its six neighboring countries, this section also briefly touches upon how the state-building processes affected the Hungarian minority residing in the selected neighboring states. Furthermore, as the above-mentioned nation-building processes complicated the relations between Hungary and, mainly, Romania, Ukraine and Slovakia, this section focuses on the state-building processes and their background in the aforementioned newly independent countries at the beginning of the 1990s.

### ***3.4.1. Romania***

In Romania, similarly to in other states, although the communist regime ended in 1989, the legacy and processes of the communist nationalism (in this case, of Ceausescu) could not be easily overcome, and its significant characteristics not only affected the first years of regime change, but also the years beyond it. The nation-building of the communist regime meant, in general, overlooking or ignoring the unique ethnic diversity of the territory and focusing on speeding up nation-building processes. Therefore, the leading goals were the “titularization” of the nation, and achieving a state of congruence between group and state borders, in which the rights of the titular nation took precedence over the protection of minority rights. It also meant that minorities were considered as potential security threats, especially in those cases when they enjoyed close relations with their kin-states. Between 1976 and 1989, the rise of communist nationalism can be observed: this was a time when party leaders aimed at the creation of a socially, economically, and ethnically homogenous state through forced assimilation and tacit agreements that facilitated emigration for the purposes of “family reunification”. For instance, the re-introduced term “cohabiting minorities” of the 1965 Constitution after 1985 disappeared from public discourse, and in the case of the Hungarian minority, was replaced by the expression “Romanians of Hungarian origin” (Salat and Novák, 2015, pp. 64-66). These processes also worsened, on a large-scale, the relations between Hungary and Romania; Hungary clearly considered the moves of Romanians as disrespecting the human and minority rights of Hungarians residing in the latter country (Bárdi, 2004).

After 1989, the issue of national minorities somewhat changed, since in many cases the national minorities of countries actively participated in overthrowing the communist dictatorships, while during the 1989 revolution minorities and the majority became united against a common communist enemy, although, as mentioned, the legacy of the communist regime prevailed. The Hungarian community also had the political and social weight to become an important actor in certain regions, and the leadership of the time made some gestures to recognize the rights of minorities (Salat and Novák, 2015, p. 67). However, as early as in 1990, some moves by the Hungarian minority, as well as the request of Hungarian politicians (Democratic Union of Hungarians in Romania, RMDSZ) to protect their rights on a wider basis (mainly in Harghita and Covasna counties where Hungarians make up an overwhelming majority of the population), were considered by the Romanian leadership as separatist claims.

The Hungarian elite also demanded more power and a better distribution of leading positions and respect for minority rights, which resulted in tension – for instance, in Szeklerland, triggering antagonistic attitudes from the Romanian leaders and the majority in the 1990s. The Constitution of Romania of 1991 declared that “Romania is a sovereign, independent, unitary and indivisible National State” (Article 1 (1)) and that “national sovereignty shall reside within the Romanian people” (Article 2 (1)). Although the Constitution recognized and guaranteed “the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity” (Article 6 (1)). In practice, national minorities faced many disadvantages compared to the majority, and the implementation of the provision was lacking. Relations between the Hungarian minority and the majority, as well as the relationship of the country with Hungary have deteriorated since 1990, and this process has not yet been reversed.

Romania, besides its nation-building efforts and processes, similarly to other Central European countries, held it of crucial importance to become a part of the “Europeanization process”, and thus to join the European Union and NATO in the 1990s. However, both international organizations defined conditions for candidate countries that, among other stipulations, included the existence of a democratic society, as well as respect for minority rights and friendly relations with neighboring countries. This was the main driver of some Central European states, and thus for Romania, to start to develop a domestic legal framework for the protection of national minorities. As emphasized in the thesis, this was also the main reason for the conclusion of the bilateral agreement between Hungary and Romania on good neighborly relations. The document was signed by the Parties in 1996, although negotiations had already begun in 1992, which process was aggravated by some disagreements between the two states. However, due to the accession criteria of NATO, in 1995 the parties sped up the adoption process of the treaty. In general, after the fall of communism, the European integration process of the country was supported by the elites, as well as by the population, although the main objective was to pull away from the communist regime, not necessarily to comply with Western views and approaches in some areas. Additionally, the country had to simultaneously engage in three inter-linked processes in the 1990s: internationalization, liberalization, and democratization, while all social relations also needed reorganization: those with other countries, relations between the

state and the economy, and relations between citizens and the state (Craciun, 2014, p. 3).

From the 1990s until the present day approximately 600 laws, decrees and decisions have been used to frame minority rights in Romania, and there is now an impressive body of legislation that covers a wide spectrum of rights. This framework has benefited, among others, the Hungarian national minority living in the country – for instance, the Democratic Union was secured stable representation in parliament, and recurrently invited to participate in governing coalitions (Salat and Novák, 2015, p. 76). However, the existence of the practical realization of minority rights should be questioned, not only in connection with the Hungarian minority, but with other minority groups. In conclusion, it can be observed that Romanian nation-building in the first year after 1989 induced crucial changes compared to the previous era under the communist regime. The joint efforts of the majority and minorities to combat and change the reigning communist power brought together members of society. However, after the leadership somewhat changed, and the Hungarian minority started to request that certain rights be secured, harsh conflicts developed with the majority, and the new Romanian leadership seemingly started to disapprove of the aims of minorities to play a more significant part in politics and society. In other words, the successful nation-building of Romanians could not be reconciled with the claims of minority groups. Furthermore, the fear of the Romanian leaders that the Hungarian minority has secessionist aims towards Romania, and the characterization of the latter's aims as separatist, also led to the neglect and restriction of minority rights and hindered the peaceful coexistence of the majority and the minority. While multilateral institutions and Romania's desire to joining such bodies resulted in the creation of measures and laws connected to respect for minority rights, their practical realization is sometimes questioned. Moreover, this framework has not in reality improved the relationship between the majority and, for instance, the Hungarian minority residing in the country, nor the relations between the two states in the long term.

### ***3.3.2. Ukraine***

The case of Ukraine is also an excellent example of nationalizing state or nationalism. Present Ukrainian state considers for its ancestor the Ukrainian People's Republic, which existed between 1918 and 1920. After the dissolution of the Soviet Union, Ukraine proclaimed its independence on 24 August 1991, and a referendum on the issue



was only held in December 1991, when the majority of the population voted for the independence of the country. Of the nation-building efforts of Ukraine, it is characteristic that although at the end of the 1980s there existed unity on the side of the democratic opposition, before the social transformation some ethnic, religious, linguistic, etc., differences existed that resulted in the emergence of a few irreconcilable camps. Therefore, national interests could not be uniformly defined, and nor could the question “what is the Ukrainian nation” be answered clearly (Fedinec, 2009, p. 126). The inherited legacies of colonialism and communism were characteristic of Ukrainian thinking and the formation of identity after the country gained its independence, as was the case in other post-communist countries. Ukraine’s population under communism were required to reject their own traditions, while adopting the beliefs, attitudes, and values of the oppressor, thereby destroying their own culture and language, which led to passivity and dependency under both Polish and Russian rule. Ukrainians were constantly told that they had never sought to exist as an independent state (Kuzio, 1998, p. 152).

After gaining independence, Ukraine only had to replace the symbols of the Soviet state, thus they did not construct a new unity, but as a form of self-definition they took on the mantle of the Ukrainian People’s Republic. The political elite, similarly to that of some other post-communist countries, was not immediately changed, because in the independent Ukraine the elected parliament of 1990 remained in place until 1994, while the last Soviet-Ukrainian leader was elected the first president of the country. Furthermore, Ukrainian nation-building and the consolidation (Fedinec et al, 2016). It is generally accepted that the independence of Ukraine is less likely the result of the success of the nationalist movement, but much more of the dissolution of the Soviet Union. In connection with the nation-building of the 1990s in Ukraine, the post-communist elite, as well as the nationalist opposition, was unable to compromise on some issues. In reality, political parties did not represent national interests, but exchanged regional bonds for political capital: in East-Ukraine, the latter involved a strong economy, in the West, nationalist rhetoric (Fedinec, 2013, p. 275). Leonid Kravchuk, the first president of independent Ukraine from 1991 until 1994, supported the national revival – a return to national traditions and the recovery of the historical memory of Ukrainians and national minorities. This era was thus designed to usher in a new set of values to fill the spiritual void that had appeared after the collapse of

communism. These new values included national culture, language, and identities – all areas subject to corruption in the Soviet era – as well as the integration of Ukraine within Western models of education, culture, and political thought. Kravchuk also believed that the Ukrainian language should be assigned absolute priority as a state language, and that after the dominance of the Russian language under communist rule the prestige of the Ukrainian language and culture should be revived through pointing to its deep historical roots. This was undertaken through conferences, exhibitions, concerts, festivals, and the exchange of cultural groups throughout Ukraine (Kuzio, 1998, pp. 127-129).

The first body for representing the interests of the Hungarian minority living in Ukraine, the Transcarpathian Hungarian Cultural Association (*Kárpátaljai Magyar Kulturális Szövetség*), was established as early as in 1989, while in 1994 some members seceded from the Association to establish the Forum of Transcarpathian Hungarian Organizations (*Kárpátaljai Magyar Szervezetek Fóruma*), which included members and organizations representing different views to those of the Association. In 1991, the Association established the Hungarian Democratic Alliance in Ukraine, from which body the membership of the Alliance was terminated in 1997, strengthening the splitting of the Hungarian minority in Ukraine into two camps. Concerning the relations of the independent Ukraine with Hungary, the first years of the 1990s can definitely be considered a positive period because Hungary was among the first countries to recognize Ukraine and initiate diplomatic relations with the country; Hungary was the first state with which Ukraine established a treaty on good neighborly relations and cooperation in 1991, and the first Ukrainian delegation opened in Budapest in 1992. The Hungarian community in Transcarpathia formulated its claim for autonomy shortly after the independence of Ukraine, together with some other nationalities, but the Transcarpathian region only received special economic status in 2001; autonomy until the present day has not been realized. Following 1997, relations between the two countries significantly changed because Hungary became a member of NATO, effectively making Ukraine a buffer zone, and thereby causing a setback in the Hungarian-Ukrainian relationship. The country had to deal with the economic, political, and national obstacles standing in the way of immediate membership, and both a Ukrainian and European consciousness had to be promoted. The other crucial aspect in connection with the nature of relations between the two states was (and is) influenced

by the fact that Hungary connects every political issue with the situation of Hungarians in Transcarpathia – thus it is one of the most important topics in the relationship between the two countries (Kuzio, 1998, pp. 135-136). In the following period, and until the present day, the rights of the Hungarian national minority in Ukraine have been neglected, and specific rights connected to the preservation of their identity have not been secured: this is the main reason for the deterioration in relations between the two countries, which is still a relevant factor. For instance, in 2009, the Hungarian Parliament published a political statement on events in Ukraine of particular concern that were negatively affecting the Hungarian national minority. Moreover, the Hungarian leadership at that time, and also since then, have called on Ukraine to discontinue the derogation of rights of the Hungarian minority, which call in most cases was left unaddressed by Ukraine.

Coming back to the nation- and state-building of Ukraine, in August 1996 president Kuchma claimed that state-building was completed, although he accepted that nation-building is a much broader process, particularly in Ukraine, where national consciousness had been so severely damaged. Leonid Kuchma, the second president of independent Ukraine from 1994 to 2005, promoted state support for the Ukrainian language and culture through legislative, administrative, and financial and economic policies. He believed that genuine statehood would be impossible without a stable and well-developed economy and social well-being, and also secured greater say for regions in the development of cultural, educational and linguistic policies. Furthermore, under Kuchma, Russia was no longer portrayed as an enemy, and the Russian language as foreign (Kuzio, 1998, pp. 127, 130-131). Following 1994, a debate arose in Ukraine in connection with nation-building; this concerned what kind of Ukraine is being built (a civic versus an ethnic state). Among the majority of Ukrainian political groups there was a consensus that Ukraine should comprise both civic and ethnic elements in its nation-building project. However, it also should be mentioned that Ukraine did not clearly formulate an ideology and lacked a sense of direction, with a lack of clarity about what its leaders were attempting to achieve and build (Kuzio, 1998, pp. 133-134, 136). The Constitution of Ukraine of 1996 referred to “the Ukrainian people - citizens of Ukraine of all nationalities” (Preamble); it declared, *inter alia*, that “the state language of Ukraine is the Ukrainian language” and “in Ukraine, the free development, use and protection of Russian, and other languages of national minorities of Ukraine, is

guaranteed” (Article 10). The document also emphasizes that “the State promotes the consolidation and development of the Ukrainian nation, of its historical consciousness, traditions and culture, and also the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine” (Article 11). National and ethnic identification in Ukraine are influenced by many factors. In the Tsarist Empire and the former USSR, the Russian language was the main social-cultural vehicle, and the use of Ukrainian was left in the past. Although in independent Ukraine the language significantly defines the identity of Ukrainians, identity is fundamentally multidimensional and cannot be reduced to a single element.

In conclusion, the development of Ukrainian identity, consisting of multiple elements, was a difficult task from the time of the country’s independence (Fedinec et al, 2016). On the one hand, the dissolution of the Soviet Union did not eliminate the presence of the Soviet identity that most Ukrainian people identified themselves with. On the other hand, Ukrainian leadership, mainly in the 1990s, found it hard to define the ways in which the country and the Ukrainian people could determine their identity that the country could pursue during the process of nation-building. From the end of the 1990s, and in 2000s, the process of nation- and state-building slowly developed, although was slowed down by the economic crisis. However, significant growth in national pride and national consciousness could also be identified at the end of the 1990s, and modernization and democratization efforts started to develop (Kuzio, 1998, p. 164). In spite of this, both the build-up of Ukrainian identity and the modernization of inherited customs and traditions, as well as the promotion of Western values, should be considerably increased.

### ***3.4.3. Slovakia***

The Slovak state – except from the period between 1939 and 1945 – had the opportunity to build up its own sovereign nation state only after 1993 when the Czechoslovak state split up and the two nations established two separate sovereign states. Therefore, for the Slovak nation their statehood, nationhood, and uniqueness was promoted after 1993 (Hardi and Mezei, 2015, p. 191). On the other hand, in the case of Slovakia nation-building was significantly complicated by the process of democratization, and these two parallel processes were rather contradictory, making regime change more difficult. Historically, issues of Slovak national identity and independent statehood were the most

divisive ones, creating opposite camps both within the elite and the majority society (Szomolányi, 2004, p. 155). The constitution of the country was signed in 1992, and according to the document “the Slovak Republic is a sovereign, democratic state governed by the rule of law” (*Constitution of the Slovak Republic*, 3 September 1992, Article 1 (1)) and “the Slovak language is the official language of the Slovak Republic” (Article 6 (1)). In the Preamble of the document some historical events are referred to that may be considered to be aiming to prove the important and ancient historical background of the Slovak nation. For instance, the text mentions the political and cultural heritage of their predecessors and the experiences of centuries of struggle for national existence and statehood, as well as being “mindful of the spiritual bequest of Cyril and Methodius and the historical legacy of Great Moravia”. It should also be emphasized that the thinking of the Slovak people was crucially influenced by history and by historians. Based on the mainstream historical view, the geopolitical location of the history of Slovaks may be traced back to the present territory of Slovakia. It is acknowledged by few that on the present territory of Slovakia, besides Slovaks, other nationalities have historically also been present. When this fact is admitted, it is mostly Germans, Jews, and Roma people who are referred to as co-habiting nationalities; Hungarians are only hardly or not at all acknowledged when dealing with the issue. In most cases, the current Hungarian minority residing in Slovakia is considered as an assimilated minority group of Slovak origin. Therefore, a certain kind of “as if history” has been constructed by Slovaks: as if Slovakia has always existed (Hardi and Mezei, 2015, p. 192). The above situation also strengthens the claim that the state building of Slovakia was achieved together with nation-building, as can be observed in other CEE states. However, in Slovakia, nation-building rather meant attempts to validate and justify the historical roots and the legitimacy of existence of the Slovak nation and thereby, the establishment of the sovereign country. As can also be observed in the newly established states examined in the present section, the nation-building processes of these countries brought about not only the strengthening of the national feelings of the majority society, but in many cases also the oppression of minority groups and neglect for their needs and rights. In the 1990s in Slovakia, the leadership starting developing an anti-Hungarian spirit; Vladimír Mečiar, prime minister of Slovakia between 1990 – 1991, 1992 - 1994 and 1994 – 1998, initiated some changes that negatively affected the Hungarian national minority in all three periods when he was the prime minister. Anti-Hungarian Slovak nationalist outbreaks occurred following the

spring of 1990 on the streets as well as in the press. The distrust of the Slovak government was increased by a statement of József Antall, the first democratically elected prime minister of Hungary in 1990, who stated that his aim was to be the prime minister “in spirit and in feelings” of 15 million Hungarians. Although the statement did not involve revisionist thoughts and claims on the side of Hungary, the Slovak leadership considered it as revisionist and as an intervention in the affairs of the Czech-Slovak state (Mitrovits, 2016, pp. 61-63).

By 1993, bitter fights over national identity, national issues, and ethnic questions, economic transformation, and Mečiar’s intolerant and undemocratic leadership style had significantly divided both the political elites and the mass public in Slovakia (Szomolányi, 2004, p.155). For instance, in 1990 in South-Slovakia, Hungarian politicians demanded increased autonomy for the southern regions. Therefore, the coalition government led by Mečiar initiated and divided the country into eight regional units that were established in such a way as to attenuate the Hungarian population. Although after 1992 some rights were secured for the national minorities, this mainly occurred because of Slovakia’s objective of joining international organizations, similarly to other CE states (to the Council of Europe and later to the EU and NATO). Although the country was left out of the first round of Europeanization and Euro-Atlantic integration processes due to the approaches and policies of the leadership of the time, the state was not deemed ready to participate in these. In 1995, further aggravation occurred in connection with minority language use that secured the primacy and superiority of the Slovak language. On the other hand, and in comparison with neighboring Central European countries, many turning points occurred in the post-1989 developments in Slovakia, and the four elections of 1990, 1992, 1994 and 1998 may be characterized as so-called “critical elections”, representing turning points in political development and the transition from communism (Szomolányi, 2004, p. 152). It should also be mentioned that, after the 1992 elections, Mečiar recruited supporters from the ex-communists and the spiritual heirs of the wartime state’s Slovak People’s Party, using a platform of “national emancipation”. Therefore, in the initial years after the establishment of the state, nationalist-populist politicians remained in power, and gained control of the transition period when the foundations were laid for the country’s independent statehood, similarly to in Ukraine and Romania.

Changes occurred only after the 1998 elections, when the new Prime Minister Dzurinda headed towards integration with European structures and refused the Eastern image of an autarkic and self-sufficient national third road for Slovakia. Therefore, the democratic consolidation of the country basically started only from 1998, and in the subsequent years the political system was stabilized and the country's international position improved (Szomolányi, 2004, pp. 153-154). Accordingly, after the split of Czechoslovakia it took a few years for the country to start to move away from the characteristics of the earlier regime, although the leadership of the time stated to build up the nation state in the spirit of earlier communist ideologies, negatively affecting relations between the majority and minority in Slovakia, as well as the relationship between the country and Hungary, which has impacted the relationship between the two countries until the present day. The evolving anti-Hungarian attitudes of the leadership during the first years of nation- and state-building of Slovakia were also strongly influenced by the fact that the Hungarian minority residing in the country maintained strong and close ties with the kin-state, Hungary, inducing fears of separatism, as well as questioning the fact of the integration of Hungarians into Slovak society (considered a negative and suspicious phenomenon by many Slovaks). Similarly to the above-mentioned prime minister, Mečiar, other nationalist politicians also often aimed to deepen conflicts between the majority and the Hungarian minority, or defined ethnic differences and historical grievances as crucial factors, significantly influencing the life and well-being of the majority society, even until today. In reality, this rhetoric served only their purpose of strengthening clashes between citizens for their own purposes. On the part of Hungary, perceived Trianon-related offences and the aim of supporting the ethnic-kin minority in Slovakia were decisive factors in the formulation of the relationship with the Slovak state. In other words, relations between Hungary and Slovakia have mainly been influenced since the establishment of the Slovak state by issues concerning the Hungarian national minority – the longstanding policy of the Slovak government towards the Hungarian minority, and the policy of Hungary towards Hungarians living outside the border. All other issues between the two states have been of secondary importance (Mitrovits, 2013, p. 162). Furthermore, nation-building process in the early years in Slovakia resulted in the leadership defending nationalism and the sovereignty of the state against external and internal enemies – including in many cases, minorities, and especially the Hungarian minority, which was defined as an enemy that was working on disuniting the Slovak state. Therefore, the strengthening

and promotion of Slovak national identity and language was seen as a counterweight to these potential “threats”, as the Slovak legislation on language use illustrated (Szabó Mihály, 2009).

In conclusion, and concerning primarily the Hungarian minority residing in Slovakia, as well as relations with Hungary, Slovakia through its nation- and state-building efforts also tried to compensate for an inferiority complex, as well as for its insecurity related to the development of its new identity that was due to historical circumstances. It approached the present as a time to retaliate for historical events, including when the Hungarian state forcefully assimilated and lived off the Slovak national minority. In the Slovakian interpretation, the Hungarian state has been and is blamed for the neglect of Slovaks in the past, although it is rather historical circumstances that led to such circumstances. “Compensation” for perceived injustices by the Slovaks obviates the existence of peaceful relations between the two countries, and is a misreading of history (Borsi-Kálmán, 2009, p. 196). In other words, the nation and state-building of Slovakia has been coupled with permanent distrust and with the aim of identifying a common enemy (Mitrovits, 2013, p. 173). These processes have since generally changed to a significant degree (including in connection with Hungarian-Slovak relations) although deeply-rooted negative attitudes may still be observed during the present relations between the two states.

### **3.4. National minorities and security**

In some Central European states, the issue of national minorities has often been observed by the governments of home states through the lenses of national security, as already highlighted above. As constructivism emphasizes, the judgments, views, and what actors believe to be true about themselves and others, *inter alia*, define the present nature of relations between them. Opinions that are based in certain cases on experience, but in others on inappropriate assumptions and concepts, are constructed by decision-makers and political leaders and have evolved over the years, decades, or even centuries in connection with other actors. The latter may be neighboring or other countries, as well as the national minorities residing in a particular country, or in the home state. In several CE states, the view has evolved that national minority groups that have kin-states in CE, or whose states are neighboring countries, are disloyal to the state of residence. Brubaker’s triadic nexus about the three antagonistic nationalisms or differing aims of kin-states, nationalizing states, and national minorities explains that



conflicts may easily erupt between the latter actors. However, it is uncommon that major disagreements occur between the kin-state and its national minority residing abroad; problems mainly arise between the kin-state and nationalizing state, as well as between the nationalizing state and the given nation minority that is connected through ethnic ties to the other country but resides in the nationalizing state. In some cases, historical facts or events (for instance, the past existence of the Kingdom of Hungary) can also be considered a major cause of the emergence of different assumptions or animosities between the highlighted actors; however, in a majority of instances, supposed historical grievances are unfounded. Furthermore, the assumption and perspective of certain CE states has been (and somewhat still is) grounded on the fear that kin-state minorities have a greater loyalty to their kin-state than to the state of residence, as already emphasized. National minorities have often been considered irredentist groups who wish to redraw international boundaries to unite the territory they reside in with the territory of the kin-state. Furthermore, it has also been assumed this group would collaborate with their kin-state if the latter militarily invaded the home country (Kymlicka, 2008, p. 25). In post-communist states, the *securitization of minority issues* has been revealing in word or and in deed. Kymlicka points out that securitization of minority issues in Central and Eastern Europe was based on three assumptions that dominated the public debate. The first is that minorities are disloyal not only to the state they live in, but they have also collaborated with former oppressors and will continue to collaborate with current or potential enemies. The second assumption, based on the first, is that a strong and stable state requires weak and disempowered minorities. Therefore, as the third assumption concludes, the treatment of minorities is above all a question of national security (Kymlicka, 2008, p. 27). Presently, the perception of minorities as a security threat is not one of the main concerns of CE states. However, the security approach is still adopted as an underlying and largely unexpressed principle based on legacy attitudes towards national minorities that are deeply rooted in the societies of certain states. This situation to some degree prevails even if the countries of the region have accepted Western norms, many of those at least “on paper”.

After the First World War, Central and South-Eastern European states acted as if they were responsible for the protection of minorities under the League of Nations treaty system, although, their aims were very selective and did not prevent nationalist policies

and territorial revisionism (Csergő et al, 2018, pp. 6-7). At that time, these countries treated minorities as responsible for fragmentation and possible upheaval in society. It has also been argued that security was the source of motivation of several countries for drafting legal instruments and creating international organizations focused on minority issues, particularly the OSCE High Commissioner on National Minorities. Security threats were also drivers of the development of some minority policies in these states (Csergő et al, 2018, p. 7). In Central European countries, the situation concerning respect for minority rights and the approach towards minorities significantly changed at the end of the twentieth century; however, connecting security issues to minority groups to a certain degree is still a prevalent and crucially important approach, although it is rarely publicly expressed.

It should be noted that one significant difference from Western states (in relation to the issue of national minorities) is that relations between the state and minority groups in the latter were desecuritized, while in post-communist Europe the perception of homeland minorities was not (Kymlicka, 2008, pp. 24-25). Although the gap between the two views (Western and Eastern) in this regard seems to have somewhat diminished – a positive development –, this is probably only an apparent improvement. It is more likely that, as has been mentioned, the governments of CE states do not openly communicate their concerns connected to the securitization of national minority issues, and their priorities are focused on other political and economic areas. It is very likely that the differences between Western and Eastern European countries connected to minority issues cannot be fully reconciled, mainly because of the regions' completely different historical and political backgrounds. Even if the securitization of minority issues is not now openly emphasized in CE countries, the underlying political atmosphere and way of thinking still incorporates the mentioned security-related understanding of minorities.

In summary, in the West, it is almost always the minority group that seeks apology and compensation from the state that has historically mistreated it. This historical injustice strengthens minority claims and initiates greater equality between the majority and the minority. The majority is, so to say, pressured not to expel, subordinate, or oppress minority groups. In post-communist countries, the reverse occurs: it is the majority that feels it has been the victim of oppression, often at the hands of minorities who are perceived to have collaborated with foreign enemies. This is the reason why the majority wants the minority to accept their guilt, apologize, and promise that it never

again will be disloyal to the state. In this context, arguments about historical injustices work against minority rights claims, inferring that minorities have no right to exist on the territory of the state (Kymlicka, 2008, p. 29). As constructivist scholars point out, as structures that are based on the identities of actors develop, the behavior of such actors and states may be altered positively as well. In some Central European states this means that for solutions to be found, or changes to be made in the attitude of a given society, deeply rooted conditioning and patterns of thinking should be transformed so states can achieve minority protection *in practice*. However, achieving this objective is beset with obstacles in many countries, clearly influencing the operation (or lack thereof) of the intergovernmental joint committees on national minorities, for example, between Hungary and its neighbors – as further explained in the following chapters.

An important example of the role of international bodies in fostering the desecuritization of national minority issues occurred in the 1990s, owing to the EU accession demands of CE countries. For the sake of speeding up the European integration process, several incentives for de-securitizing state-minority relations were created, and the EU Member States at the time connected EU membership with the necessary institutional, ideological and social changes concerning the societies of CEE countries (Kymlicka, 2008, p. 7). These incentives also affected the situation and rights of national minorities (note merely the inclusion of the requirement of the protection of and respect for national minorities in the Copenhagen criteria). Although after the fall of communism democratization efforts were coupled with nationalist strategies, and most Central European countries that wanted to join the West did not or could not pursue an aggressive nationalist policy, the approach remained relevant. The fact that Czechoslovakia, the Soviet Union and Yugoslavia fell apart along national lines made numerous scholars and politicians assume that nationalism had had a potentially destabilizing political effect (Csergő and Goldgeiger, 2004, pp. 21-22). Cooperation in international organizations, as well as the states' aim of joining the EU, also helped to somewhat diminish the overly nationalist views of governments and initiate protection of the rights of national minorities. In spite of this it often occurred, and still occurs, that national minority rights are neglected; however, as mentioned in the first section of the thesis, their protection is primarily the task of states in which they reside. In the contrasting situation, the mistreatment of a national minority group often gives rise to worries and different forms of intervention by their kin-state, aimed at solving or

improving their situation in the home state. This practice, however, usually evokes the disapproval of the host country. In the following, the role and approach of kin-states concerning the policies they follow towards their national minorities living in a neighboring country are briefly presented.

### **3.5. The approach of kin-states**

In the Central-Eastern-European framework, the issue of kin-states started to be dealt with more comprehensively after the dissolution of the Soviet Union in the post-communist era (from the beginning of the 1990s) due to the establishment of new states and the state- and nation-building processes briefly explained above in connection with several CE states. Many of the former countries came into existence due to the dissolution of other, multinational states, accompanied by nationalist violence – for instance, in the former Yugoslavia – and the reawakening of long-held animosities between neighboring states framed by the historical shifting of borders and populations could be observed. These historical events started to indicate that bonds of shared ethnic kinship across borders were a potentially dangerous driver of instability in the region, thus the situation and treatment of national minorities (those having strong ties to a neighboring state), became a key issue in the foreign and domestic policy of many post-communist states (Waterbury, 2020, p. 800). As already highlighted, some home states that were home to a significant national minority with a kin-state assumed that both kin-states and the national minority had irredentist claims towards the home state, or that the kin-state desired to intervene in the internal affairs of the home state, as well as support their national minority through different means. The principle of non-intervention into the internal affairs of states is an important legal requirement and objective, and for kin-states to provide for their nationals living in other countries, only limited opportunities are available. At this point, it should be noted again that the importance of the conclusion and implementation of bilateral treaties lies in the fact, among others, that these documents settle the issues of national minorities, as well as define the policies followed towards them in the respective states. Thereby, and through other methods as well, states are able to cooperate and solve some problems jointly, and when both parties implement the provisions of a treaty, they have a significant chance of avoiding antagonistic relations or the need for intervention by any of the states. Furthermore, without regulation of the above-mentioned issue (to what degree the kin-state has the opportunity to support their national minorities outside the border), it is difficult to

determine which kin-state policies are seen as legitimate interventions and helpful support, and which can be deemed sources of insecurity and instability, and therefore liable to initiate conflict between the respective states.

In spite of the provisions and recommendations of international and bilateral agreements, the level of legitimate kin-state intervention in the life of national minorities has been and is questioned. The practices and approaches followed by kin-states, as well as the level of intervention, are evaluated differently by states and by the international environment. It should also be pointed out that kin-states deal with their national minorities living outside the border differently; they follow differing policies towards them, and support them in diverse ways and to various degrees. In other words, the issue and situation of national minorities residing in other states is not considered equally important in every kin-state. Palermo also emphasizes that it cannot be denied that the legitimacy of kin-state policies largely depends on the context and on the political effect of inter-state relations. The practical effect of inter-state relations is usually judged in terms of conflict prevention and security (Palermo, 2011, p. 15). This also implies that in most cases security issues, or issues regarded as such, are given preference over other topics and aspects.

The Hungarian Status Law of 2001<sup>24</sup>, for instance, has been strongly debated both in neighboring countries and in other states, with differing evaluations. The Law, in short, regulates the benefits and allowances for Hungarians living in neighboring countries in the areas of education, culture, science, scholarships, travel allowances, healthcare, employment, and several other areas as well. Despite the fact that the status law is a widespread form of legislation in CE (Slovakia, Slovenia, Romania, Croatia and Poland has a similar law<sup>25</sup>), the interpretation of the Hungarian regulation created quite a stir in a few neighboring countries. The example of the Hungarian Status Law also shows how differently a policy or an action of a kin-state can be assessed by other states.<sup>26</sup>

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<sup>24</sup> Act LXII of 2001 on Hungarians Living in Neighboring Countries, adopted by the Hungarian Parliament on 19 June 2001, entering into force on 1 January 2002.

<sup>25</sup> A státustörvény elemzése. Political Capital – Policy Research and Consulting Institute. Available at: [https://politicalcapital.hu/konyvtar.php?article\\_read=1&article\\_id=510](https://politicalcapital.hu/konyvtar.php?article_read=1&article_id=510)

<sup>26</sup> For instance, Romania, and the Romanian prime minister at the time, probably the biggest opponents of the Hungarian Status Law, turned to the Venice Commission requesting an examination of the compatibility of the Status Law with other European and international legal norms, standards and principles. As a result, the Commission created its official report on Preferential Treatment of National Minorities by their Kin-State in October 2001. For more information on the Hungarian Status Law, as well as on its assessment and analysis, see: Zoltán Kántor (ed.) (2002): A státustörvény. Dokumentumok,

According to Waterbury, the Status Law not only created certain problems with other states, but also with the institutions of the European Union, since the most controversial of the law's provisions, ethnic identity cards and work permits, also put Hungary in the unenviable position of having to defend its diaspora policy against accusations of "discrimination" and of not conforming to EU legislation (Waterbury, 2006, p. 33).

The role of kin-states in life of their national minorities is explained in a number of international documents. Although these documents are mostly non-binding, they contain relatively detailed and useful provisions on the practices followed by kin-states. The Report on the Preferential Treatment of National Minorities by their Kin-State adopted by the Venice Commission highlights, for instance, that "the paramount importance of an adequate and effective protection of national minorities as a particular aspect of the protection of human rights and fundamental freedoms and also in order to promote stability, democratic security and peace in Europe was repeatedly underlined and emphasized." (...) "Against this background, the emerging of new and original forms of minority protection, particularly by the kin-States, constitutes a positive trend insofar as they can contribute to the realization of this goal. The practice of stipulating bilateral treaties on friendly co-operation or on minority protection is already the object of encouragement and assistance as well as of close scrutiny by the international community." (...) *"In the Commission's opinion, the possibility for States to adopt unilateral measures on the protection of their kin-minorities, irrespective of whether they live in neighboring or in other countries, is conditional upon the respect of the following principles: a) the territorial sovereignty of States; b) pacta sunt servanda; c) friendly relations amongst States, and d) the respect of human rights and fundamental freedoms, in particular the prohibition of discrimination"* (Report on the Preferential Treatment of National Minorities by Their Kin-State adopted by the Venice Commission, 19-20 October 2001, CDL-INF (2001) 19, para. D). The conclusions of the Report point out that the protection of minorities is primarily the responsibility of home-states. It also declares that kin-states play a role in the protection and preservation of their kin-minorities. However, states should respect the frameworks that exist for minority protection, and these must be treated as a priority (section E. Conclusions, p. 22).

Resolution 1335 (2003) of the Council of Europe Parliamentary Assembly on the preferential treatment of national minorities by the kin-state contains similar objectives, and “welcomes assistance given by kin-states to their kin-minorities in other states in order to help these kin-minorities to preserve their cultural, linguistic and ethnic identity. However, the Assembly wishes to stress that such kin-states must be careful that the form and substance of the assistance given are also accepted by the states of which the members of the kin-minorities are citizens, and to which the basic rules contained in the Framework Convention on National Minorities are applicable” (*Council of Europe Parliamentary Assembly, Resolution 1335 (2003): Preferential treatment of national minorities by the kin-state: the case of the Hungarian law of 19 June 2001 on Hungarians living in neighboring countries ("Magyars")*, 25 June 2003, para. 1).

In the OSCE framework, the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations of 2008 strengthen the aim that “respect for and protection of minority rights is primarily the responsibility of the State where the minority resides” (Part I. General principles, 2). Although the Recommendations highlight that “a State may have an interest – even a constitutionally declared responsibility– to support persons belonging to national minorities residing in other States based on ethnic, cultural, linguistic, religious, historical or any other ties”, at the same time, “this does not imply, in any way, a right under international law to exercise jurisdiction over these persons on the territory of another State without that State’s consent” (Part I, 4). The document emphasizes as well that “States should not unduly restrict the right of persons belonging to national minorities to establish and maintain unimpeded and peaceful contacts across frontiers with persons lawfully residing in other States, in particular those with whom they share a national or ethnic, cultural, linguistic or religious identity, or a common cultural heritage” (Part II, 8).

In 2001, the OSCE High Commissioner on National Minorities, Rolf Ekéus in a statement formulated that the “protection of minority rights is the obligation of the State where the minority resides. History shows that when States take unilateral steps on the basis of national kinship to protect national minorities living outside of the jurisdiction of the State, this sometimes leads to tensions and frictions, even violent conflict.” (...) “At the same time it does not preclude a State from granting certain preferences within

its jurisdiction, on a non-discriminatory basis. Nor does it preclude persons belonging to a national minority from maintaining unimpeded contacts across frontiers with citizens of other States with whom they share common ethnic or national origins". Furthermore, in connection with bilateral treaties he stated that these "can serve as useful in respect of national minorities in the sense that they offer a vehicle through which States can legitimately share information and concerns, pursue interests and ideas, and further protect particular minorities on the basis of the consent of the state in whose jurisdiction the minority falls. However, the bilateral approach should not undercut the fundamental principles laid down in multilateral instruments. In addition, States should be careful not to create such privileges for particular groups which could have disintegrative effects in the States where they live" (OSCE High Commissioner on National Minorities: Sovereignty, responsibility, and national minorities: Statement by OSCE Minorities Commissioner, The Hague, 26 October 2001). This statement briefly but precisely summarizes the most important aspects of both kin-state policies and bilateral instruments. It is crucial to take into account that minorities have to be relatively integrated into the society of the home country, and that the support for and provisions of the kin-state have to be proportionate to the mentioned aim. Roter also highlighted that extreme dependency of national minorities, living outside the kin-state on kin-state support can increase the dependency on the foreign state and have the effect of separating members of minority communities from each other in the home country, resulting in partial alienation from that country (Roter, 2019, p. 27). Thus, integration into the society of the home state becomes problematic, making the life of the given minority more difficult in several areas. Furthermore, perhaps the biggest trap associated with the bilateral management of minority issues is that the national minority loses its sovereignty and becomes a mere instrument in the hands of the kin-state. Therefore, the kin-state has to pay attention not to undermine, with its paternalistic behavior, the sovereignty of its national minority living in other countries, turning them into a reflection of the majority of the kin-state (Roter, 2019, p. 28).

Besides security and conflict-related issues, kin-state policies towards their national minorities living in home states, and home state policies towards these national minority groups –as well as any other political conduct between the respective countries – are highly dependent on the nature of political relations between the two parties. When relations are friendly, or it is in the interest of both countries to maintain or develop



peaceful and flourishing relations between each other, the emerging problematics connected to minority protection are likely to be solved fairly by both Parties. In the contrasting case, states should reckon with a different outcome, resulting in the shelving of national minority issues, as well as their being inappropriately addressed. In short, kin-state activism is legitimate inasmuch as States want it to be, but its impact on friendly international relations is proportionate to the reaction from the home state (Palermo, 2011, p. 27).

In summary, the above-mentioned instruments include similar objectives concerning the role of kin-states in the lives of their national minorities residing abroad. The fulfillment of these goals depends on the policies of the given countries, as well as on the political conduct of home states followed towards national minorities residing in the country. It is a legitimate demand that the kin-state should pay attention not only to the degree of intervention of any form into the life of national minorities residing abroad, but they should also abstain from using these groups for their purposes, or attempting to shape their identity to conform to that of the kin-state. Furthermore, kin-states should not hinder the proper integration of kin minorities into the societies of home states; at least until such integration reaches the level that is beneficial for the minority group itself. One of the means and opportunities for doing this, as previously emphasized, may be the conclusion of bilateral treaties through which uncertainties can be clarified and disagreements solved in many areas. The latter can also help construct a proper framework and common solutions in connection with national minorities.

### **3.6. The practice and short history of the conclusion of bilateral treaties in Central and Eastern Europe**

Assuming a bilateral level of minority protection, and concluding bilateral treaties, is not a novelty due to the end of Cold War, and nor is it a practice followed only by CEE states. In the twentieth century two approaches have prevailed in connection with the conclusion of bilateral treaties: on the one hand, this included the establishment of asymmetric agreements on minority protection – for instance, with the winners of the First World War –; and on the other hand, these documents were created to manage minority issues (Gál, 1999, pp. 2-3). In fact, the minority protection system after the First World War was partially based on the idea of bilateralism; bilateral and multilateral treaties were incorporated into different peace treaties that referred to the establishment of new borders and incorporating the rights of minorities into the newly

created states. Disappointment with this system and unsuccessful attempts to pursue it under the aegis of the League of Nations stopped states dealing with the issue multilaterally, and after the Second World War anti-discrimination measures developed by the UN served as general principles of human rights, later used in reference to minorities as well. In the period after the Second World War, states also started to conclude bilateral agreements, as previously mentioned, in order to deal with minority issues. For instance, a treaty was concluded between Italy and Austria (Gruber-De Gasperi Agreement, 6 September 1946), between Italy and Yugoslavia (the statute annexed to the London Memorandum, 5 October 1954) and between Denmark and Germany (29 March 1955).

Bilateral agreements were usually named “treaties of good neighborliness and cooperation”, but the documents are often referred to in brief as “basic treaties”. The notion of “*basic treaty*” was first used at the time of the political settlement of relations between the two German states in the form of the *Grundvertrag*, an international agreement which was signed by the Federal Republic of Germany and by German Democratic Republic in December 1972. One of the crucial issues of the first bilateral treaties was reinforcing the inviolability of borders and stressing the necessity of international cooperation related to the enforcement of international legal commitments which were incorporated into the former documents (in the Peace Treaties of 1947 and in the Helsinki Final Act of 1975). The newly started process of concluding bilateral treaties in 1991 was initiated by the German-Polish friendship treaty. The background of the treaty is rooted in German reunification and the related need to guarantee the frontiers resulting from the Second World War, and also the need to protect German national minorities in Central and Eastern European countries (Gál, 1999, pp. 3-4). The provisions of the treaty included the protection of national identity in relation to education, culture, language use, and religion, and it also referred to free trans-frontier relations between the country and communities of the same culture. The treaty is a defining instrument in the sense it served as a model for many states during the process of formulating their basic treaties with other countries (Arp, 2008, p. 11) several of which will be examined in the subsequent chapter.

The next and most significant period in concluding bilateral treaties came after the dramatic fall of the Berlin Wall, when minority issues were awarded far-reaching importance because of political changes. In the 1990s, the content of bilateral

agreements exceeded the level of international norms on minority protection; on the one hand, complementing them, and on the other hand, focusing on specific issues between particular countries. Kin-states of the region, feeling responsible for their nationals living in other states, tried to secure their protection and respect for their rights in residing states (Vizi, 2020).

The other significant reason for initiating bilateral talks at the beginning of the 1990s was that Central and Eastern European states regarded Euro-Atlantic integration as one of the main elements of their success at the domestic and international level. After 1989, when crucial system-level changes took place, one of the main aims of CEE states was to participate in the European integration process, as mentioned above. A majority of countries also truly needed to take part in the process of Europeanization; otherwise, they would fall behind other European states, and be forced to look for other alliances. One of the major drivers of the conclusion of bilateral treaties between CE states, at least during the first half of the 1990s, was the fact that the EU held it of crucial importance that candidate countries, prior to EU accession, would be reconciled with each other and newly recognize each other's' sovereignty and territory (Pataki, 1996). The conditions for EU accession aimed, *inter alia*, at solving the problematic matters of minorities and other political disagreements. Similarly to the impact of the EU, in the 1990s NATO also forced reconciliation between European countries to some degree through the conclusion of bilateral agreements.

Regardless of the reasons, at the European level numerous bilateral treaties were concluded in the 1990s; in CEE, the number was 43 between the years 1991 and 1993. The most active states concluding bilateral treaties in this period were Hungary, Romania, Germany, and Poland. However, between 1991 and 1993 treaties were typically signed between countries not having serious disputes concerning national minorities or border issues – when they did, treaties were not signed between them (for instance, Hungary did not sign a treaty at that time with Slovakia and Romania) (Fiala-Butora, 2017, p. 21). In the CEE context, in these initial years treaties on good neighborliness and friendly co-operation were signed, for instance, by Germany and Poland; by the Czech and Slovak Federal Republic and the Federal Republic of Germany; by the Federal Republic of Germany and Hungary; and by the Federal

Republic of Germany and Romania<sup>27</sup>. Several treaties came into existence between Poland and its neighbors.<sup>28</sup> Treaties signed by Ukraine with Moldova and Lithuania<sup>29</sup> can be mentioned as well, and although not in the European framework but more generally, treaties between Russia and the CIS states<sup>30</sup> are also examples of the latter. The bilateral treaties adopted by Hungary and its six neighbors will be analyzed in the following chapter of the thesis<sup>31</sup>, thus these documents are not referred to at this point, but obviously those could also be included in the above list. The majority of mentioned treaties were adopted between 1991 and 1992, with very similar structure and content.<sup>32</sup> Furthermore, the treaties, in most cases, established intergovernmental joint committees in order to facilitate consultations between the two particular states, including the representatives of national minorities, on the problematic issues concerning the mentioned groups. One of the most crucial developments of joint committees was that they secured the opportunity for national minorities to participate in their work, thereby making them more or less able to decide, together with other members of the particular committee, about certain matters concerning their community.

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<sup>27</sup> Treaty between the Federal Republic of Germany and the Republic of Poland on Good Neighborly Relations and Friendly Cooperation of 17 June 1991; Treaty of Good Neighborliness and Friendly Cooperation between the Czech and Slovak Federal Republic and the Federal Republic of Germany of 27 February 1992; Treaty of Good Neighborliness and Friendly Cooperation between the Czech and Slovak Federal Republic and the Federal Republic of Germany of 27 February 1992; Treaty between the Federal Republic of Germany and Hungary concerning Friendly Cooperation and Partnership in Europe of 6 February 1992; Treaty between the Federal Republic of Germany and Romania concerning Friendly Cooperation and Partnership in Europe of 21 April 1992.

<sup>28</sup> Treaty between the Republic of Lithuania and the Republic of Poland on Friendly Relations and Good-Neighborly Cooperation of 26 April 1994; Treaty between the Republic of Poland and the Republic of Latvia on Friendship and Cooperation of 1 July 1992; Polish-Belorussian Treaty on Good-Neighborliness and Friendly Cooperation of 23 June 1992; Treaty between the Republic of Poland and Ukraine on Good Neighborliness, Friendly Relations and Cooperation of 18 May 1992; Treaty between the Republic of Poland and the Russian Federation on Friendly and Good Neighborly Cooperation of 22 May 1992.

<sup>29</sup> Treaty on Good Neighborly Relations, Friendship and Cooperation between Ukraine and the Republic of Moldova of 23 October 1992; Treaty on Friendship and Cooperation between the Lithuanian Republic and Ukraine of 8 February 1994.

<sup>30</sup> Treaty between the Russian Federation and the Republic of Kazakhstan on Friendship, Cooperation and Mutual Assistance of 25 May 1992; Treaty between the Russian Federation and the Republic of Kirgizstan on Friendship, Cooperation and Mutual Assistance of 10 June 1992; Treaty on Friendship, Good Neighborliness and Cooperation between the Russian Federation and the Republic of Georgia of 3 February 1994.

<sup>31</sup> Treaty on the Foundations of Good Neighborly Relations and Cooperation between the Republic of Hungary and Ukraine of 6 December 1991; Treaty on Friendly Relations and Cooperation with Croatia of 16 December 1992; Treaty of Good Neighborliness and Friendly Cooperation with Slovakia of 19 March 1995; Treaty on Friendship and Cooperation with Slovenia of 1 December 1992; Treaty on Understanding, Cooperation and Good-Neighborly Relations with Romania of 16 September 1996.

<sup>32</sup> Using the summary of several of the mentioned treaties from Gál, 1999, pp.6.

Besides the conclusion of bilateral treaties, there were other European initiatives aimed at reconciling CEE countries that originated from Western countries. One of the most successful and significant attempts was the one drafted by Prime Minister Edouard Balladur that was presented to the French Council of Ministers on 9 June 1993, the aim of which was to establish a European security system, in the form of a draft *Pact on Stability in Europe*. France presented this draft to the European Council in Copenhagen on 21-22 June 1993. The initiative was directed towards assuring the application of principles agreed by European countries in practice with regard to the respect of borders and rights of minorities (French proposal for a stability pact in Europe, Copenhagen, 21 and 22 June 1993). According to the text of the initiative, “the principal objective of the Pact would be to set out in detail and implement, in the countries whose relations are not yet stabilized by membership in one of the main European political bodies, the principles already defined in regard to borders and minorities; and to organize and coordinate the action of the many existing institutions to provide the best possible guarantee for these principles” (French proposal for a stability pact in Europe, Copenhagen, 21 and 22 June 1993, pp. 2-3). In reality, as mentioned above, the requirement associated with Eastern and Central European countries was the conclusion of bilateral treaties on good neighborliness, thereby securing the inviolability of borders and the protection of minorities. Although future EU membership was very desirable, the Balladur initiative did not contain any concrete preliminary support or deadline for admission, so it did not become an effective instrument of political pressure. Furthermore, the Pact was wary of the *de jure* codification of minority rights, referring to national minorities or national minority issues only in a generalized sense, and often in connection with the topic of borders, as well as laconically referring to the nature of bilateral talks (Kovács, 1996, p. 127). In summary, the Pact was unable to solve the underlined problems, and it was no coincidence that it was not signed under the aegis of the EU, but in the OSCE framework in 1995 at the Final Conference on the Stability Pact in Europe in Paris (Vizi, 2019, p. 56). It should also be noted that the Pact is legally non-binding; however, it initiated a negotiation process between several countries, particularly between Hungary and Slovakia, and Hungary and Romania leading to the conclusion of bilateral treaties. The Hungarian-Slovak bilateral treaty on good neighborliness and cooperation was concluded shortly after the Conference, on 1 April 1995, and included a restricted interpretation of collective minority rights initiated by the Slovak party, affecting Hungary adversely. The Hungarian-Romanian bilateral

treaty was signed only a year after the Conference. Gál highlights that the impact of the initiative was not clear, since the outcome of some bilateral treaties has been controversial, and that during the negotiation process of the Pact, national minority communities were not invited to take part either in multilateral or bilateral talks (Gál, 1999, pp. 4-5). However, with the conclusion of treaties on good neighborliness and cooperation between Hungary and Slovakia, Hungary and Romania, and in other relations, national minority groups were provided the opportunity to participate in further bilateral talks regarding their situation, rights, and objectives in the frame of intergovernmental joint committees. The issue of the participation of national minorities in the referred to bodies is analyzed in further chapters that focus on the effectiveness of the committees; in other words, on whether the participation of the former been realized effectively in practice, or whether such committees have enabled them only to take part without having a notable effect on their work.

The initiation of bilateral talks was also crucial in the sense that in the same decade it became more and more obvious that multilateral solutions concerning reconciliation in CEE were probably not the only nor best way of settling problematic issues between countries – for instance, the situation of national minorities. Several international instruments initiated the conclusion of multilateral as well as bilateral treaties. For instance, the Council of Europe Framework Convention for the Protection of National Minorities pointed out that “Parties shall conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighboring States, in order to ensure the protection of persons belonging to the national minorities concerned” (*Council of Europe Framework Convention for the Protection of National Minorities*, Strasbourg, February 1995, H (95) 10, Article 18).

Additionally, the Bolzano Recommendations emphasized that “States should co-operate across international frontiers within the framework of friendly bilateral and multilateral relations and on a territorial rather than an ethnic basis and are encouraged to conclude bilateral treaties and make other bilateral arrangements in order to enhance and further develop the level of protection for persons belonging to national minorities” (*OSCE High Commissioner on National Minorities: The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations and Explanatory Note*, June 2008, Part IV, 16. and 18). The advantages of the conclusion of bilateral treaties was summarized by the Report of the Venice Commission as follows: “The potentialities of bilateral treaties

in respect of reducing tensions between kin-states and home states (tensions which can rapidly escalate when those in power regard minorities as unreliable and minorities fear that the home states will not respect their identity) appeared to be significant, to the extent that they can procure straight commitments on sensitive issues, while multilateral agreements can only provide for an indirect approach to those issues. Furthermore, they allow for specific characteristics and needs of each national minority and of the peculiar historical, political and social context to be taken into direct consideration” (*European Commission for Democracy through Law (Venice Commission: Preferential Treatment of National Minorities by Their Kin-state*. Report CDL (2001) 97, p. 4).

In summary, bilateral treaties in some cases settled border issues between countries in the initial phase of their establishment. Additionally, the documents also dealt with the protection of the rights of national minorities and, in connection with the latter, important and until the present day still operational bodies were set up by the treaties in the form of the intergovernmental joint committees dealing with issues and problems of national minorities. Concerning Hungary and its neighbors, from the 1990s, the committees secured a significant opportunity for national minority groups in Central Europe to become involved in a particular area and form of decision-making through some relations at least on paper, and in others in practice as well. Furthermore, as explained in following chapters, the effectiveness of joint committees and of minority participation has also been dependent on many other factors, and the operation of the examined joint committees has usually not been unproblematic. In the following two subsections, the characteristics and general nature, wording, and aims of political representation are presented in connection with bilateral treaties. Subsequently, the general description and objectives of intergovernmental joint committees are analyzed based on the texts of several European bilateral treaties in order to summarize the shared characteristics and practices of the bodies. Thus, the general nature of both political representation and intergovernmental joint committees is more broadly defined and summarized. As the focus of the thesis is the six joint committees between Hungary and its neighbors, these treaties and bodies are not included in the following subsections, but are dealt with in the next chapters of the thesis.

### 3.7. The “political representation” of national minorities in bilateral treaties

The international background of political participation and representation of national minorities was summarized and briefly analyzed in Chapter II, according to which it is undeniable that national minorities that lack the opportunity of *effective* political participation and representation will be able to operate as equal “players” in the residing states. Although the provisions of certain significant international documents on effective participation are non-binding, many of their objectives and proposals were included into bilateral treaties. It also should be noted that in bilateral treaties it is not the right to political participation and representation that is emphasized, but to a large degree respect for minority rights, which has developed throughout the decades.

The present subchapter examines the most crucial elements, formulation, and wording of minority participation and representation in a few bilateral treaties, mainly at the European level. From the high number of reviewed documents, only those are presented that contain reference to the political participation and representation of national minorities. The second preliminary remark is that although the research deals with Central European countries, this section also includes mention of treaties established among other European and a few non-European countries. This is because the mentioned documents contain important passages from the point of view of the present research, and are thus useful when comparing their wording and objectives concerning minority participation with other Central European bilateral treaties, and help construct a broader picture of bilateral treaties in general.

The wording and aim of effective participation is included in a number of treaties in relation to the importance of minorities taking part effectively in decision-making.<sup>33</sup>

- *Treaty on Good Neighborly Relations and Friendly Cooperation between the Federal Republic of Germany and the Republic of Poland*, signed on 17 June 1991, deals with the members of the German minority in the Republic of Poland and with persons belonging to the Polish minority in the Federal Republic of Germany. Article 21 of the document declares that Parties respect the rights of these groups to *take part effectively in public affairs*, including collaboration in affairs relating to

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<sup>33</sup> The English translation of the treaties has been reviewed and used based in the book: Arp, Björn (2008): *International Norms and Standards for the Protection of National Minorities*. Bilateral and Multilateral Texts with Commentary. Martinus Nijhoff Publishers, Leiden, Boston. In this work, full-texts or certain passages of bilateral treaties have been summarized. The majority of the treaties referred to by this thesis, apart from the mentioned book, are not accessible in English.



the protection and promotion of their identity. In connection with this, they shall take the necessary measures, after appropriate consultation including making contact with organizations and associations of the mentioned minority groups.

- *Treaty on Friendly Cooperation and Partnership in Europe between the Federal Republic of Germany and the Republic of Hungary*, signed on 6 February 1992, contains provisions related to several issues including the rights of German minority living in Hungary and the Hungarian minority living in Germany. Article 19 pronounces, only in connection with the German minority living in Hungary, that members of the German minority and their organizations have the right to co-operate in decisions concerning the safeguarding and development of their identity and in the realization of such decisions. The document does not literally mention the expression ‘effective participation and representation,’ but the article describes the aim of Germany to involve German minorities in decision-making concerning matters related to them.
- *Treaty on Friendly Relations and Partnership in Europe between the Federal Republic of Germany and Romania*, signed on 21 April 1992, aims to establish and develop the relationship of the latter countries, seeking close cooperation in all fields. Article 15 (2) highlights that members of the German minority in Romania have the right to *participate effectively* in public events, including matters regarding the protection and promotion of their identity.
- *Treaty on Friendly Relations, Cooperation and Mutual Assistance between the Russian federation and Kazakhstan*, signed on 25 May 1992, in Article 14 states that Parties guarantee the right of persons belonging to national minorities to *participate effectively and adequately*, according to their needs, in governmental affairs relating to the protection and promotion of their identities. The “according to their needs” phrase is quite innovative in comparison to other bilateral treaties, and leaves considerable room for maneuver for national minorities.
- *Treaty on the Fundamental Principles of the Intergovernmental Relations, Friendship and Cooperation between the Russian Federation and the Republic of Uzbekistan*, signed on 30 May 1992, deals not only with the national minorities of the two countries, but with persons residing on their territories, regardless of their nationality, gender, language, religion, and so on. Article 7 declares that Parties respect the right of persons belonging to a national minority to *effective participate* in state affairs. The provision is more of a general one, including all citizens of the

country, and thus strengthens the equal participation of citizens in public relations, although not giving the complementary power for national minorities to strengthen their identity.

- *Treaty on Neighborliness and Friendly Cooperation between the Republic of Poland and the Republic of Belarus*, signed on 23 June 1993, pronounces that Parties shall aim to treat persons belonging to national minorities as a factor strengthening mutual understanding and good-neighborly relations between the Polish and the Belarusian peoples. According to Article 16 (4), Parties will respect the right of persons belonging to both minority groups to *effective participation* in public affairs – in particular, in affairs relating to the protection and promotion of their identity, and when necessary, they will hold consultations with the organizations and associations of such persons.
- *Declaration on the Principles Guiding the Co-operation between the Republic of Hungary and the Russian Federation regarding the Guarantee of the Rights of National or Ethnic, Religious and Linguistic Minorities*, signed on 11 November 1992, secures, according to Section 7, the unhindered exercise of the right of individuals to *participate* substantially in social life through, inter alia, the establishment of independent social organizations and associations, so that minorities can protect and express their legal interests and participate in all matters regarding the safeguarding and development of their identity and the adoption and execution of decisions affecting their place of inhabitation. Section 8 of the document includes an important passage: namely, the need for the realization of the principle that state organs dealing with issues of national minorities should be organized through democratic means and with the participation and consideration of the interests of nationalities, including the social organizations and associations that express their opinions. This provision is unique in the way it highlights a crucial aspect of the participation of any group in society.
- *Treaty on Friendship and Cooperation between the Czech Republic and the Russian Federation*, signed on 26 August 1993, in Article 23 defines that Parties shall *promote the participation* of national and ethnic minorities in the life of society and create favorable conditions for the development of their ethnic, cultural, linguistic, and religious identity.
- *Treaty on Friendship and Cooperation between the Republic of Lithuania and the Republic of Belarus*, signed on 6 February 1995, notes that the national minorities

of both countries living on the territory of the other State have the *right to participate* in public life on local and state level directly or through freely elected delegates (Article 11).

- *Agreement on Cooperation for the Purpose of Ensuring the Rights of the Russian Minority in Turkmenistan and the Turkmenistan Minority in the Russian Federation between the Russian Federation and Turkmenistan*, signed on 18 May 1995, ensures in its Article 4 that minorities have the *right to participate* in public and governmental life, especially in decisions pertaining to the protection of their interests and affecting the regions where these minorities reside. Furthermore, by the adoption of legislative, administrative, and other measures that affect these interests of the minorities, Parties shall hold consultations with their representatives.
- *Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Kazakhstan on cooperation in supporting citizens of German nationality of the Republic of Kazakhstan*, signed on 31 May 1996, in Article 2 declares that national minorities have the right to take part both directly and through their representatives in the conduct of State affairs.
- *Treaty on Good Neighborliness and Cooperation between Romania and Ukraine*, signed on 2 June 1997, in Article 13 (4) highlights that Romanian and Ukrainian national minorities have the *right to effectively take part* in public affairs, including through elected representatives in accordance with the law, and in cultural, social, and economic life.
- *Treaty on Cooperation for the Guarantee of the Rights of Persons belonging to National Minorities between Ukraine and Belarus*, signed on 23 July 1999, pronounces that Parties guarantee for persons belonging to national minorities the *right to participate* in public and governmental life, particularly with regard to deciding questions concerning the protection of their legitimate interests (Article 5).
- *Treaty on Cooperation in the Field of National Minority Protection between the Federal Government of the Federal Republic of Yugoslavia and the Government of Romania*, signed on 4 November 2002, in Article 7 states that persons belonging to national minorities have the right, in accordance with national legislation, *to participate* in the decision-making processes at the state, regional, or local level, that are significant for the respective national minority.

- *Treaty between the Republic of Macedonia and Serbia and Montenegro on the protection of the Macedonian national minority in Serbia and Montenegro and protection of the Serbian and Montenegrin national minority in the Republic of Macedonia*, signed on 6 July 2004, according to Article 8 states that Parties shall enable the *active participation* of minorities in making decisions that refer to the rights and the position of minorities on local, regional, and state levels, and ensure their appropriate representation in the representative bodies at all levels.
- *Treaty on the protection of the rights of the Serbian and Montenegrin minority in the Republic of Croatia and of the Croatian minority in Serbia and Montenegro*, adopted between Serbia and Montenegro and the Republic of Croatia, signed on 15 November 2004, in Article 2 stipulates that minority members have the right to *protection for their equal participation* in public affairs, self-organization, and association for the purpose of achieving mutual interests, as well as the enjoyment of political and economic freedoms. Furthermore, Article 9 states that Parties shall enable the participation of national minorities in the passing of decisions pertaining to their rights and their position at local, regional, and national level in the Republic of Croatia, and at a local, regional, republic, and state level of the State Union of Serbia and Montenegro, by enabling the establishment of political parties and participation in representative and executive bodies at the local and national level.

According to the above provisions of bilateral treaties on the political participation of national minorities, the following general conclusions can be summarized: the texts of documents contain significantly similar wording and aims in connection with the political participation and representation of national minorities. It is emphasized by the Parties that national minorities, in general, should be able to take part effectively in public affairs, and in the political and social life of the country. Furthermore, it is stressed that the mentioned groups should be secured with the opportunity to take part in issues related to the protection and promotion of their identity, particularly in regions in which they reside, and in those matters that directly affect them. It is also often highlighted by the treaties that national minorities should be represented by elected representatives or take part directly in political life on a local, regional, and state level. Moreover, it is often recommended that the political elite hold consultations with the representatives of national minorities concerning issues related to their identity, or in connection with matters affecting them. It should also be noted that bilateral treaties do

not include a detailed overview and definition of minority ‘participation’ and “representation” itself; nor do they specify the exact methods of the implementation of the latter in order to achieve “effective participation”. In other words, in the documents, political participation appears in the generalized way that can also be observed in most international documents and instruments that deal with the issue, although the incorporation of the matter into bilateral treaties should regardless be considered a positive development.

### **3.8. The establishment of intergovernmental joint committees in bilateral treaties**

Bilateral treaties or treaties on good neighborly relations and friendly cooperation, in most cases, as was pointed out, establish joint intergovernmental committees for dealing with the issues of national minorities, focusing on their needs, objectives, and problems in the respective countries. The referred-to bodies are, in certain cases, established by separate bilateral treaties on the protection of national minorities that deal solely with the mentioned issue. In the following subsection, similarly to the previous part, some bilateral treaties are briefly presented, this time focusing on the establishment of intergovernmental committees and on their incorporation into some European bilateral treaties. Therefore, most of the general characteristics of committees are summarized based on the wording and objectives of the documents.<sup>34</sup>

- *Treaty on Friendly Cooperation and Partnership in Europe between the Federal Republic of Germany and the Republic of Hungary*, signed on 6 February 1992, establishes a Joint Commission not specifically focusing on national minority issues, but having a more general nature. It is empowered to evaluate and make recommendations concerning cultural exchange in all areas.<sup>35</sup> The Treaty points out

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<sup>34</sup> The English translation of the treaties has been reviewed and used based on the book: Arp, Björn (2008): *International Norms and Standards for the Protection of National Minorities. Bilateral and Multilateral Texts with Commentary*. Martinus Nijhoff Publishers, Leiden, Boston. In this work, full texts or certain passages from the bilateral treaties have been summarized. The majority of the treaties referred to by the thesis are, apart from in the mentioned book, not available in English.

<sup>35</sup> Article 20 of the Treaty: “(2) During its meetings, the existing Joint Commission shall evaluate and make recommendations concerning the cultural exchange in all areas. (3) The Contracting Parties express the expectation that the cultural cooperation between Germany and Hungary shall increasingly take place in a direct way, between cultural institutions and organizations, artists and associations of artists of both countries”. (Source of the unofficial English translation: ‘Comparative Summary of Bilateral Agreements for the Protection of National Minorities,’ CoE Doc.SP/BA(2003)002, Strasbourg, December 2003, pp. 322.)

that Parties shall aim to work for the establishment of a Europe in which human rights and fundamental freedoms, including the rights of minorities, are respected, and borders cease to be divisive due to the mutual understanding and the elimination of economic and social differences (Article 1 (2)). The Treaty secures for the members of the German minority in the Republic of Hungary individual as well as group rights to freely express, safeguard, and develop their ethnic, cultural, linguistic, and religious identity. According to the Treaty, the Republic of Hungary shall take measures to protect and strengthen the identity of the German minority on its territory (Article 19 (2) and (4)).

It should be noted that the Hungarian-German Joint Commission is operating well, nowadays organizing its meetings every two years alternately in Hungary or in Germany; the last commission meeting took place in October 2019. The functioning of the Commission slightly differs from those operating between Hungary and its neighbors; however, it is useful to briefly present its operation because it is one of the best functioning committees, generally. The Commission consists of several sub-committees, each dealing with a specific thematic issue between the Parties – for instance, with education, infrastructure, forestry, etc. Furthermore, the sub-committees have not been established between Germany and Hungary (i.e. between the two countries, as is the case in other bilateral committees), but between specific German Länder and Hungary. For instance, a sub-committee has been established between the Land of Baden-Württemberg and Hungary, between the Land of Thuringia and Hungary, and so on. With respect to Hungary, different governmental and other bodies take part in the work of particular sub-committees together with the concerned German Länder. For example, based on a short interview with the head of the German Educational Institute of Hungary, the Institute represents the German minority living in Hungary (through an institute maintained by the German National Self-Government of Hungary) in the bilateral sub-committee on education between Hungary and Bavaria, Hungary and Baden-Württemberg, and Hungary and Thuringia. However, as mentioned, other joint sub-committees were also created to focus on different issues between other Länder and Hungary, but in these the Institute is not involved, since thematically these are concerned with other areas.

With regard to the other minority participants on the side of Hungary that represent the German minority, in several sub-commissions the German minority

spokesperson of the Hungarian Parliament and the president of the German National Self-Government of Hungary are involved. Moreover, as with the practice of other committees, representatives from specific ministries participate on the Hungarian side in the work of all sub-commissions depending on the thematic issues dealt with by the given bodies. After the thematic meetings of sub-commissions, the plenary meeting of the Hungarian-German Joint Commission takes place at which Parties agree on the provisions of the protocol, and appoint, by name, the responsible bodies or persons for the implementation of particular objectives that shall be achieved by the subsequent commission meeting.

- *The Agreement on the Program for Cultural Cooperation between the Republic of Slovenia and the Republic of Italy for the years 1995-1998* reaffirms the cooperation of Parties for enhancing the cultural life of the minorities in both countries. This agreement on cultural cooperation from 1995 is continuously renewed between the two states. Its activity is coordinated by the Mixed Slovenian-Italian Commission for Minorities which may make new proposals concerning the mentioned field of activity. Parties focus on the areas of education and culture in order to preserve the historic, artistic, cultural, and linguistic identity of the Italian minority in Slovenia, and the Slovenian minority in the provinces of Trieste, Gorizia, and Udine (Article 2). Besides the Mixed Commission, the Treaty secures the opportunity for both Parties to set up a group of experts to work out the details of how to implement proposals, the latter who are nominated by the competent ministries of both States (Article 4).
- *The Cooperation Agreement between the Ukrainian Ministry for the Problems of Nationalities and Migration and the Department for National Relations of the Moldovan Government*, signed on 19 February 1996, aims to ensure, inter alia, favorable conditions for the respective nationals living outside their historic homeland, as national minorities are deemed an integral part of society they live in, enriching it with their culture and traditions. Through the Agreement, Parties have set up a Moldovan-Ukrainian Inter-departmental AC for preparing and examining joint programs and measures in order to fulfill the provisions of the Agreement. The Committee consists of an equal number of representatives of both Parties. It engages in consultations according to a defined agenda, develops a joint activity plan, and makes recommendations and defines organizational mechanisms for the

proper implementation of the Agreement and discusses the funding of joint programs and actions (Article 8).

- The *Treaty on Cooperation in Matters related to Persons of German origin who reside in Ukraine between the Federal Republic of Germany and the Republic of Ukraine*, signed on 3 September 1996, refers to Ukrainian citizens residing in Ukraine and belonging to the German national minority; to persons of German descent who have taken up permanent residence in Ukraine, having immigrated there in the years 1992 to 1995; to persons of German descent being forcefully resettled from the current territory of Ukraine and their descendants who have returned to the country during the validity of the Agreement (Article 1). These persons have the right to individually, or in community with others, freely express, preserve, and develop their ethnic, cultural, linguistic, and religious identity (Article 4). The Agreement establishes the German-Ukrainian Governance Commission for the coordination of joint projects and measures, and for the execution of the Agreement. The representatives of the German minority must be included in the Ukrainian delegation, and the Commission meets as required, but not less than once a year. For other areas of cooperation, subcommittees and other organs can be formed, according to the Agreement (Article 16).
- According to the *Treaty on Good Neighborliness and Cooperation between Romania and Ukraine*, signed on 2 June 1997, Parties shall protect the ethnic, cultural, linguistic, and religious identity of their nationals, and in order to cooperate in monitoring the commitments undertaken by the Treaty, they shall create a joint inter-governmental Commission which shall hold at least one annual session (Article 13 (1) and (13)).
- In line with the *Treaty on Cooperation between the Government of the Republic of Moldova and the Government of the Republic of Belarus for the guarantee of the rights of national minorities*, signed on 9 September 1997, Parties shall set up a Moldovan-Belarusian Consultative Commission for the formulation and analysis of the programs and actions taken for the fulfilment of the treaty. This consists of an equal number of representatives of each Party and meets periodically in order to elaborate common action plans and propose recommendations, and analyses the fulfillment of previously adopted programs. The Commission creates the organizational mechanisms for the realization of different objectives and discusses the issues related to the funding of the common programs and actions (Article 8).



- The *Treaty on the Cooperation in the Fields of Culture, Education and Sciences between the Republic of Austria and the Republic of Slovenia* was concluded to take into account the cultural and educational or scientific needs of the Slovenian minority in Austria and of the German minority in Slovenia. Parties established a Mixed Commission composed of the representatives of the Parties, while the presidency is held by the director of the delegation of the representatives of the Party on whose territory the session takes place. The Treaty provides that each Party can convene the Commission, and that at least every three years an ordinary meeting should be organized. It is also defined in the document that at each of the commission sessions Parties shall inform each other about the working programs and the state of their realization. The composition or the modification of both Commission delegations should be communicated through diplomatic channels (Article 20).
- Pursuant to the *Treaty on Cooperation in the Field of National Minority Protection between the Federal Government of the Federal Republic of Yugoslavia and the Government of Romania*, signed on 4 November 2002, Parties set up an Intergovernmental Joint Commission for implementing the provisions of the document that is composed of the representatives of the Parties on a parity basis, and includes representatives of associations of persons belonging to national minorities. The Commission draws up recommendations necessary for the exercise of the rights of the members of national minorities and for the protection of their identity. The Commission meets at least once a year (Article 11).
- Based on the *Treaty between the Republic of Macedonia and Serbia and Montenegro on the protection of the Macedonian national minority in Serbia and Montenegro and protection of the Serbian and Montenegrin national minority in the Republic of Macedonia*, signed on 6 July 2004, Parties established a special Intergovernmental Mixed Commission for monitoring the implementation of the Agreement. The Treaty defines that Parties shall delegate an equal number of representatives, obligatorily including minority representatives. The Commission meets as needed, but at least once a year. The Treaty defines that the Commission shall deal specifically with current problems regarding the issues of national minorities, and fulfil the obligations set out by the Treaty, making recommendations to the respective governments in relation to the actualization of and changes to the Agreement (Article 14).

- By the *Treaty on the protection of the rights of the Serbian and Montenegrin minority in the Republic of Croatia and of the Croatian minority in Serbia and Montenegro, adopted between Serbia and Montenegro and the Republic of Croatia*, signed on 15 November 2004, the contracting Parties established an Intergovernmental Mixed Committee for monitoring the implementation of the Agreement. Based on the document, Parties appoint an equal number of representatives to the Committee, among whom the representatives of minorities are present. Representatives of minorities are appointed at the recommendation of the umbrella co-ordination bodies of national minorities. The Committee meets at least once a year, taking turns on the home country of the Parties. The tasks of the Committee include the examination of the implementation of the Agreement and the submission of recommendations for the sake of the implementation of the Treaty.

The above-listed treaties clearly show of the some common characteristics of joint committees, and there are similarities in their wording, structure, and aims. As general conclusions, based on the presented documents, it can be noted that intergovernmental committees:

1. have been set up in order to implement the objectives of the establishing bilateral treaty between countries concerning each other's national minorities living on the territory of the other State;
2. consist of representatives of both States, including the representatives of national minorities, Although the number of representatives is not defined in the treaties, it is defined by the Parties;
3. meet at least once a year, but in most cases they can meet as often as needed, as agreed by the States; Parties take turns organizing and chairing the committee meetings,
4. (committees and meetings) are led by the two co-chairmen;
5. formulate recommendations for future action required to preserve the identity and protect the rights of national minorities in both countries;
6. monitor the implementation of previously defined committee objectives.

Concerning the representation of national minorities in committees, bilateral treaties, as mentioned, define that minority representatives have to or should take part in the work

of bilateral bodies on both sides. The number of minority representatives is not specified by any of the documents, nor is the exact person, party, or organizations that should appoint the minority representatives. In practice, the representatives of national minorities and their sending organizations or parties are chosen by the government of the residing state, or this is agreed on by the Parties. It should also be noted that, necessarily, only a limited number of minority representatives from a restricted number of minority organizations, institutions, or parties can be involved in the work of committees. Minority representatives represent their own minority group as a whole, although this does not unequivocally mean that all institutions or objectives of the same minority are equally represented and emphasized, since only some bodies, some institutions, and organizations belonging to the same minority are able to be represented in a particular committee. As far as bilateral treaties do not define the membership criteria for minority representatives in committees, governments are able to decide on who should participate in meetings (through invitation to attend) (*Comparative Summary of Bilateral Agreements for the Protection of National Minorities. CoE Doc.SP/BA(2003)002*, Strasbourg, December 2003, pp. 17-18), as already highlighted. In most cases, as it is further explained in the following, parliamentary parties or the biggest parties of the given minority are involved in the work of bilateral committees, which can be evaluated as a valid procedure. However, in certain cases it would be worth considering the participation of members of second biggest minority party of the same community or other minority NGOs when dealing with the representation of a minority in bilateral committees. Furthermore, as noted in previous chapters (and applicable to joint committees as well), the presence of minority representatives in itself does not fulfill the criteria of effective participation – they should also be able to influence the decisions of the body they are members of. This issue is further analyzed in the following chapters, mainly based on interviews undertaken with minority representatives of the examined six bilateral committees between Hungary and its neighboring states. Prior to that, in the next chapter, the construction and establishment of the six mentioned committees is described.

## **Chapter 4: THE BILATERAL COMMITTEES ON NATIONAL MINORITIES**

### **4.1. The bilateral committees on national minorities between Hungary and its neighbors**

The importance of the participation of national minorities in public and social life and in the decision-making procedures of their country of residence is a crucial aspect when dealing with the issue of respect for their rights, as more comprehensively emphasized in Chapter II. As has been noted, besides national or domestic means of minority participation, opportunities can be secured through bilateral and multilateral solutions in order to facilitate the participation and representation of national minorities in decision-making processes.

On a multilateral level, several forums exist through which national minorities are able to represent their interests. Practical mechanisms have been established concerning the monitoring mechanisms of the Council of Europe AC of the Framework Convention on National Minorities, and the CE of the European Charter for Regional or Minority Languages. Furthermore, national minorities have the opportunity to convey their concerns towards the OSCE High Commissioner on National Minorities, while the framework of the UN's annual Forum on Minority Issues is also aimed at promoting dialogue between governments, minority groups and civil society. However, the aforementioned bodies and mechanisms do not have the legal power to enforce the multilateral or national standards that have been established for the protection of the rights of national minorities. The referred-to forums mainly secure the opportunity for consultation and reconciliation among the highlighted parties. On the other hand, the establishment of these bodies may also be considered a significant development compared to former periods, by providing not only a consultative role, but also a point of reference for national minorities. One of the most significant advantages as well as challenges of multilateral forums is, in general, that the greater number of Parties and representatives permits discussion of some issues in greater detail, although the different objectives and views of participants may significantly hamper finding a consensus.

In the present chapter, after providing an overview of certain sub-questions related to the issue in previous sections of the thesis, the main topic of the bilateral committees between Hungary and its neighbors will be dealt with and presented in detail. The present section also offers the background knowledge and information for the following chapter of research in which, based on interviews with minority representatives participating in bilateral committees, the effectiveness of minority participation and representation is examined on the basis of specific crucial aspects connected to that area.

It is a self-explanatory statement that in the frame of bilateral talks and bilateral agreements, Parties have the opportunity to deal with more specific and pressing issues that are relevant to both states, thus more effectively have the opportunity to solve or regulate problems that arise. As for bilateral talks, only two Parties are involved, so agreement may be reached more easily, at least in theory. This, however, also depends on the nature of the topics under debate and relations between states, on the objectives of the Parties involved in the talks, as well as on the character of their relations. As has been previously highlighted, the referred-to issues are strongly determined by identities, norms, considerations, and the evaluations of parties that have been socially constructed based on experience, or established on false or valid assumptions, as emphasized by proponents of constructivism (Checkel, 1998). Interactions between players can change and develop, altering the structure itself. In other words, between states, conflictual relations may change, and a more cooperative attitude can mutually develop, or only in connection with specific issues. However, inasmuch as these interactions are based on the evaluations of states that are socially constructed and formulated on the basis of factors such as those highlighted above, significant difficulties may occur with altering or developing these interactions. In practice, this means that non-friendly, conflictual relations between parties cannot be easily changed, although the operation of certain bodies – for instance, the bilateral committees on national minorities – is mainly dependent on the nature of the specific relations. The implementation of international norms may, to a certain degree, influence the ‘behavior’ and political conduct of states, although this only can occur when these rules are implemented *in practice* in the states that are concerned. International and regional norms may be associated with standards that are defined for states that should be integrated with domestic norms in order to realize the given objectives. Furthermore, and based on the above, the previous

statement applies to bilateral relations as well. These relationships are also defined by the interests of countries that may seek to handle the issue of national minorities differently based on their interests, norms, assumptions, and evaluations that define their acts – as demonstrated, *inter alia*, in the processes and general work of the bilateral committees on national minorities (Jutila, 2006).

In the previous chapter, several European and non-European bilateral agreements and intergovernmental committees on national minorities were briefly presented in order to create the general background information for understanding the issue. The present section of the thesis focuses on a specific method for realizing the protection of certain national minorities in Central Europe; more specifically on the work of intergovernmental committees on national minorities between Hungary and its six neighbors. First, the section describes the general operation of the aforementioned bilateral committees based on the practice that has evolved between the Parties that follows the same pattern in all the six examined relations. The subsections of the chapter present the background information in connection with the six committees in more depth, including a review of the establishment of the bilateral agreements and other documents and regulations concerning national minorities, highlighting the participants of committees, and focusing especially on the presence of minority representatives. The chapter also lays down the foundation of Chapter V, which includes details of the interviews prepared with national minority representatives and examines more specific issues concerning their participation and representation in the committees.

As highlighted in Chapter III, it was not only Central European countries that concluded bilateral treaties on good neighborliness and cooperation and other treaties on national minority issues in the 1990s, but this was characteristic in other European and non-European states in general, even before the 1990s.

Concerning Hungary and its neighboring states, the majority of the country's bilateral treaties came into existence in the 1990s, and besides incorporating the rights and issues of national minorities on both sides, the documents dealt with other topics as well. The six bilateral committees on national minorities examined here were established between Hungary and Ukraine, Hungary and Slovenia, Hungary and Croatia, Hungary and Slovakia, Hungary and Romania, and Hungary and Serbia. In certain cases, these bodies were set up through a bilateral treaty on good neighborliness and cooperation (a "basic

treaty”) between the Parties, while in others a separate bilateral agreement was concluded, dealing specifically with the issues and protection of national minorities. The crucial importance of joint committees from the point of view of the present research is that they secured the opportunity for national minority representatives to participate in the given bodies, giving them the opportunity to represent themselves in the decision-making processes of the relevant committee that deals with the numerous issues that affect the referred-to community. The practical realization of this objective, as well as the effectiveness of committees and of minority participation, will be examined in more depth in the following chapter (Chapter 4.2).

#### **4.2. The operation of intergovernmental joint committees on national minorities in general<sup>36</sup>**

Initially, it may be noted that the functioning of the bilateral committees is based on the same working principle concerning all the six examined bilateral committees between Hungary and its neighbors, involving nearly the same level of governmental bodies and committee members. As noted in Chapter I, the Hungarian naming of intergovernmental joint committees differs slightly depending on the relation: in English, the research uses the general terms ‘intergovernmental joint committee’, “bilateral joint committee”, “joint committee” and “bilateral committee” interchangeably, for the sake of simplicity. The establishing treaties of the committees, presented in separate subsections below, define the purpose, members, and organization of committee meetings and their objectives, mostly in brief, regulating only the frequency of meetings and in certain cases, the approximate composition of the committees. The documents specify that committees should meet once or twice a year, depending on the relation. On the composition of committees, it is incorporated into the text that minority representatives should participate in their work on both sides who have been selected and appointed by the government of the home country. Treaties do not focus on other aspects of

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<sup>36</sup> This section of the subchapter on joint committee procedures that have evolved over the years is based mostly on the personal experience of the author obtained during work at the Cabinet of the Ministerial Commissioner Responsible for Developing Neighborhood Policy of Hungary at the Ministry of Foreign Affairs and Trade, Ferenc Kalmár. Mr Kalmár has also been from 2015 the Hungarian co-chairman of the six examined bilateral committees appointed by PM Decision 63/2015 on the discharge of Hungarian co-chairmen of joint committees on national minorities operating on the basis of international treaties concluded with neighboring countries, and on the appointment of a new co-chairman (63/2015. (VII. 27)). (ME határozat a szomszédos államokkal kötött nemzetközi szerződések alapján működő kisebbségi vegyes bizottságok magyar társelnökeinek felmentéséről, valamint új társelnök kinevezéséről). On the general operation of joint committees, a separate document has not been established and accepted.

committees and meetings; neither the organization, nor the form of preparatory meetings, the exact composition of committee members, the persons or sending parties, the organizations of minority representatives, nor other details. This means that the documents leave wide scope for maneuver for both the governments and co-chairmen of committees, and to some degree, to the members of particular committees in developing their own practice and processes. In certain cases, details about the working of a committee were defined and regulated during one of the first plenary meetings of the committee.

Joint committees, as their name suggests, are intergovernmental bodies, thus their work is very much dependent on the actual governments and the policies they follow, as well as on the governmental bodies responsible for their work. In Hungary, for instance, in the initial phase of operation of committees, the Office for Hungarians Abroad was responsible for the organization of meetings and the Hungarian co-chairmen were delegated by the same body. Subsequently, the Prime Minister's Office took over this responsibility, and presently, the operation of joint committees is the competency of the Ministry of Foreign Affairs and Trade and of the Prime Minister's Office. Therefore, a sort of contingency can be observed in connection with responsible bodies that is also characteristic of the situation in other countries due to ongoing changes in public administration. It should be noted, though, that the aforementioned institutional and personal changes make the committee work more difficult. Furthermore, as already mentioned several times, the nature of political relations between Parties also strongly influences not only the organization or cancellation of committee meetings, but also the general outcome of talks. In certain cases, in spite of conflictual relations, Parties meet in the frame of the committee and protocols are signed, although the implementation of accepted objectives lags behind. As a matter of course, there are several relations in relation to which countries have not even organized committee meetings for many years, avoiding negotiations on the issue of national minorities due to the completely differing views on the topic, or because of the general deterioration of bilateral relations. In these latter instances, talks often failed because one of the Parties was unwilling to cooperate in relation to certain issues, or because both Parties rejected the organization of negotiations.

Turning to the preparatory talks and processes preceding committee meetings, these are not determined by the establishing treaties, as mentioned, but throughout the years a



practice has evolved between countries that is very similar. Consecutive committee meetings are organized in turn between Parties, and take place in the country of the organizer. The processes that occur before meetings, prior talks, usually take place according to the following script: in most cases, before committee meetings the two co-chairmen and two secretaries from both sides organize a meeting to discuss the most important and problematic issues connected to national minorities, as well as to agree on the timetable of preliminary arrangements and on the approximate date of the next meeting. Subsequently, the organizing state prepares the draft protocol, including the proposed new objectives, as well as reaffirming those past aims that have not been realized throughout the years, although their implementation may still be highly important. During the drafting procedure, all participants of the given committee are involved in the process on both sides, thus representatives of responsible ministries, other experts dealing with the issues of national minorities (participating on an occasional or permanent basis), as well as the representatives of the given national minority, prepare the document. The draft protocol is always formulated by the organizer Party, as mentioned above, and circulated among the members of the committee of that side, including minority representatives, who are able to recommend objectives for future action in writing. After the process has ended, the draft protocol is sent to the other Party and the process is repeated, with the small difference that besides recommending new objectives, the second Party is already able to review the previously defined objectives of the first Party, and to decide whether these recommendations are acceptable. After the second Party has circulated the draft protocol among its members, it is sent back to the first Party, and further rounds of circulating the draft protocol do not usually occur before committee meetings, but Parties agree on the exact date of the committee meeting. Subsequently, but prior to the plenary meeting, both sides separately organize a meeting at which committee members from that particular side are present, who agree about specific open and problematic issues, review the recommendations of both Parties and, when needed, draw up several new objectives. It should be noted, though, that not all Parties organize personal talks before committee meetings for their committee members – in some cases, this practice is not, or only occasionally, followed. At the plenary meeting, all members of the committee are expected to participate, including the representatives of national minorities. The meeting is led by the two co-chairmen of both sides, but the members of the committee are entitled and welcome to express their opinions in connection with the issues of the draft

protocol, and help the meeting progress. It should be noted as well that even when Parties, more or less agree on the text and recommendations of the protocol during the written phase, numerous problematic or delicate issues often remain open, and talks drag on. It also frequently occurs that Parties do not accept particular recommendations proposed by the other Party, and on these occasions the negotiation of problematic issues defines the conduct of the meeting. If Parties reach an agreement about the text of the protocol, the document is accepted and signed by the two co-chairmen. In several countries (for instance, in Hungary), signed protocols become part of the domestic law adopted by a government decision (*kormányhatározat*), thus imposing binding commitments on the appointed bodies (ministries) responsible for implementation. In most countries, however, the documents only serve as guidelines or lists of recommendations to be followed that are legally non-enforceable. In spite of the prior dialogue, problematic issues can come up even at committee meetings, as mentioned, making agreement impossible, and in such cases a protocol is not signed.

In connection with membership in bilateral committees, it can be generally stated that the circle of committee members mostly depends on political decisions and on the practice that has evolved, as well as on the consideration of the co-chairmen of the particular relation. As mentioned, bilateral treaties do not define the composition of committees; the documents only refer to the aim of including national minority representatives among committee members, in general. In this manner, committees are composed of representatives of different ministries and experts appointed by the two governments that deal with the issues and recommendations included into the protocols (for instance education, language, culture, history, media, transport, and so on). It should be noted as well that the delegated members of ministries are selected by the former bodies themselves at the request of the co-chairman of the committee; therefore, their titles vary from desk officers and political or other advisors to deputy heads of department and heads of department. Persons occupying higher positions than mentioned do not directly usually participate in the work of committees. Based on the above, it is also observable that membership in committees is not permanent; the circle of committee members can be arbitrarily extended or reduced by the Parties based on the decision of the two co-chairman, or following a proposal of committee member(s) that is approved by the co-chairman of the given side. An interesting additional observation is that members delegated by a certain Party do not

have to be approved by all members of the committee, as a whole. In practice, the aforementioned process happens so that – for instance – the Hungarian co-chairman decides (or agrees with other members of the Hungarian side of the committee) that the presence of an expert representative of an institution or of a ministry would be highly useful during a particular committee meeting, or permanently in the committee. In such cases, the former can initiate that the nominated person is appointed on the Hungarian side of the committee by an order of the Prime Minister, as is the general practice, without the approval of the other Party, or of the other members from the Hungarian side. As a result, members of committees can be appointed or omitted at any time between consecutive committee meetings, although this does not frequently occur. The highlighted practice is unique in the sense that it enables both Parties to freely decide on the committee members on their side, and co-chairmen have comprehensive decision-making opportunities in this regard.

The presence of minority representatives is also mainly based on the legacy of practice and the nature of political relations between states, being strongly determined by the approach and evaluation of states in connection with a given national minority and with the other state, in general. The selection of minority representatives in neighboring countries follows the same process – i.e., in most cases, presidents or members of the same minority party and minority organization have represented the interests of the Hungarian community throughout the years. In most relations, these parties are involved in the work of the given committee irrespective of their position in the government or whether they belong to governmental or non-governmental parties. However, in some cases this practice has not been followed; for instance, in the case of the Hungarian-Slovak joint committee, where the party representing the Hungarian community was involved in the work of the committee only when it was incumbent in government.

In Hungary, the participation of minority representatives developed quite clearly during the initial years of cooperation in the frame of committees: in all relations, the president of the given national minority self-government and, since 2014, when the position was established, the parliamentary spokesperson of the same national minority, have taken part in the work. It is only briefly emphasized here that although the operation of both the national minority self-governments and the spokespersons is focused on the given national minority group, they have different a scope of duties. National minority self-governments protect and promote the interest of their national minority on the state-

level, coordinate the work of local minority self-governments, review and implement laws about national minority groups, as well as on bilateral and multilateral agreements in connection with the protection of national minorities Országgyűlés Hivatala, 2007). Parliamentary spokespersons represent the interests of the given national minority community in Parliament, being thus entitled to comment on issues affecting the interests of the aforementioned community, raise questions to government and to other bodies on issues affecting the interests of the represented minority group, as well as submit proposals to the Parliament for decisions.<sup>37</sup> In spite of their different functions, the spokesperson and the president representing the same national minority community at committee meetings in most cases represent the same or similar views and objectives. The two persons and institutions usually maintain close relations with each other, frequently engaging in negotiation about the issues of the given minority and of the committee as well. Therefore, at preparatory and plenary meetings of the committee they typically represent similar views and perspectives, which helps them to introduce their goals and recommendations more effectively. In addition to the above, in two relations (Hungarian-Slovenian, Hungarian-Croatian) the presidents of the biggest non-governmental organizations of the given national minorities also participate in meetings, and in one further relation (Hungarian-Slovak), experts on minority issues are frequently invited to the talks on an ad hoc basis.

It should also be emphasized that in Hungary, the Hungarian co-chairman of the committees regularly invites Hungarian representatives – in other words, their ethnic kin minority participating in the committees on the side of neighboring states – to meetings prior to those held by the committee regarding all the six relations. This statement is strengthened by the interviews with Hungarian minority representatives presented in Chapter V. At these negotiations, the Hungarian representatives residing in a neighboring country discuss their situation and future objectives with the Hungarian party that are more beneficial for the Hungarian community itself. If the kin-state, Hungary, also considers these objectives important, it can convey these interests and aims of the Hungarian community during the preliminary phase of negotiations or at the committee meeting towards the other home state. By doing this, the interests of the Hungarian community outside the border can be jointly represented by the kin-state and by the Hungarian representatives. This practice can also be explained by a model by

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<sup>37</sup> Official website of the Hungarian Parliament. Available at: <https://www.parlament.hu/bevezetes8> (Last accessed: 26 May 2020).

Brubaker, who referred to external national homelands (in this case, Hungary), as it monitors the condition, promotes the welfare, supports the activities and institutions, asserts the rights and protects the interests of their ethnonational kin minorities residing in other states. Brubaker also highlighted that if this ethnonational kin is threatened in the state of residence, the kin-state intervenes or at least tries to intervene – potentially in direct opposition with the nationalizing nationalism of the residing state (or home state), causing minor or major conflicts between the two states and the national minority itself.

In the following subsection, besides the background and functioning of the six intergovernmental joint committees, the presence of minority representatives will be explained in more detail based on the establishing treaties, on certain protocols, as well as on the relevant political background.

In the early 1990s, Hungary signed the first round of bilateral treaties with Slovenia, Croatia, and Ukraine. Some believe that Slovakia and Romania opposed signing a treaty with Hungary because of disagreement about the issues of autonomy and minority rights (Jeszenszky, 1996, p. 127). Others are of the opinion that Hungary refused to sign a treaty with the aforementioned two countries because they had refused to incorporate respect for minority rights properly into the documents.<sup>38</sup> Therefore, the Hungarian-Slovak bilateral treaty was signed in 1995 and the Hungarian-Romanian treaty in 1996 mainly due to international pressure, and the latest established treaty of the documents under examination was the one signed with Serbia in 2006 – later, due to various forms of turbulence in the Balkans and the country in general.

It should be noted that during the first round of bilateral treaties with Slovenia, Croatia, and Ukraine, two treaties were concluded between the Parties: one on good neighborly relations and cooperation, and a separate one on the protection of national minorities. The latter documents, focusing only on the protection of national minorities, provided more details about the issue than basic treaties, since they also regulated other issues between the states. On the other hand, with Slovakia, Romania, and Serbia, only one treaty was established; with Slovakia and Romania a treaty on good neighborliness and cooperation, and with Serbia a bilateral treaty on national minorities. In other words,

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<sup>38</sup> See the policies and opinions of Hungarian parliamentary parties on the mentioned basic treaties, for instance in: Győri Szabó (2000): A parlamenti pártok és az alapszerződések (1994-1997). *Magyar Kisebbség*, 6(4).

during the initial phase of cooperation separate agreements were established that defined the issues of national minorities more expansively, also presuming that the aim of the two countries was closer cooperation regarding minority issues. In relation to Slovenia and Croatia, this attitude can be observed until the present day. Concerning Ukraine, while it is true that cooperation in the frame of bilateral committees has now stopped, at the beginning of the 1990s relations were forward-looking between the two states. In the other three relations only one document was formulated. While this included certain national minority issues and established the joint committees, it lacked a more thorough description of their rights and problematics, as well as the tasks of committees. Throughout the years, it has also become obvious that in two relations between two countries that “solely” concluded a basic treaty – Slovakia and Romania – minority topics have generated many debates and conflicts.

The evaluation and understanding of both groups of countries was somewhat different in connection with national minority issues in the 1990s, and this determined their actions; their interests created their actions and identities; more precisely, for the conclusion of bilateral agreements his practice was characteristic as well.

At this point, it is important to refer back to the international framework presented in Chapter II, because the establishing treaties of bilateral committees not only regulate specific issues between Parties, but also mention crucial international documents and standards that states aim to follow, including respect for national minorities, support for their cross-border contact with the nationals of common ethnic origin, and cooperation between states in order to deal with national minority issues properly. As emphasized by constructivist theory, the norms of international institutions may affect the bilateral cooperation between states when the objectives and regulations established by international bodies are included into bilateral agreements (Wendt, 1992; Checkel, 1997; Finnemore, 2017)), as has been characteristic of bilateral treaties concluded between Hungary and its neighbors. However, the practical implementation of these incorporated international commitments concerning national minorities should be examined or managed separately, since their incorporation does not necessarily mean their practical realization by given state(s). In other words, even in the case that Parties have expressed their intention to follow specific international objectives and regulations about national minorities, the practical means of achieving these aims, or respect for the indicated commitments, strongly depends on the governments and decision-makers who evaluate the importance of such documents. This in many cases occurs differently,

based on the policies of the country, which are also strongly dependent on the nature of relations with the other state. In respect of several objectives of the 1990 Copenhagen Document (*Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, 29 June 1990, Copenhagen) that was formulated in June 1990 by the participating States of the Conference on Security and Co-operation in Europe, including Czechoslovakia, Hungary, Romania, the USSR and other countries, it can be seen that most provisions of bilateral treaties on good neighborliness concluded in the 1990s only reflect and reassert pre-existing international frames and recommendations about national minority issues. For instance, the Copenhagen Document declares that persons belonging to national minorities have the right, inter alia, “to establish and maintain unimpeded contacts among themselves within their country as well as contacts across frontiers with citizens of other States with whom they share a common ethnic or national origin, cultural heritage or religious beliefs” (Part IV, section 32.4.). Moreover, it highlights that “the participating States will protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity. They will take the necessary measures to that effect after due consultations, including contacts with organizations or associations of such minorities, in accordance with the decision-making procedures of each State” (Part IV, section 33). Furthermore, through the establishment of bilateral joint committees, the following aim of the Document was emphasized: “The participating States recognize the particular importance of increasing constructive co-operation among themselves on questions relating to national minorities. Such co-operation seeks to promote mutual understanding and confidence, friendly and good-neighborly relations, international peace, security and justice. Every participating State will promote a climate of mutual respect, understanding, co-operation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law” (Part IV, section 36). The examined bilateral treaties on national minority issues between particular states have echoed the aforementioned provisions of the Document. However, the character of relations between states, the situation of national minorities, as well as the policies followed towards them, have resulted in certain textual differences between the established documents, their basic objectives and wording. Besides including international commitments into the documents, treaties may lead to

the setting up of intergovernmental committees on national minorities – already mentioned as one of their most crucial elements.

In what follows, the six bilateral committees will be presented and analyzed more broadly by touching upon their establishment and construction, as well as other important aspects connected to the issues of national minorities. Subsection 4.3 (below) also defines the proper framework for the next chapter of the thesis, as mentioned above, thereby laying the foundation for the interviews prepared with minority representatives of joint committees.

#### **4.3. The Hungarian-Ukrainian Joint Committee on National Minorities and other crucial instruments related to national minority issues**

Ukraine, one of the constituent republics of the Union of Soviet Socialist Republics, regained its independence in 1991 after the collapse of the U.S.S.R. The Act of Declaration of Independence of Ukraine was adopted on 24 August 1991 by the Ukrainian Parliament. Hungary was among the first countries to recognize the independence of the country on 3 December 1991. The *Declaration on the Principles of Cooperation between the Republic of Hungary and the Ukrainian Soviet Socialist Republic of Ukraine for the Protection of the Rights of National Minorities* was signed on 31 May 1991 between the two Parties in Budapest. Similarly to the establishment of other bilateral committees on national minorities, the joint committee was set up by the Declaration in order to monitor the implementation of the document and the fulfilment of the related commitments, and was composed of representatives from the two Parties. In connection with the participation of minorities, the document highlights that “Parties express their readiness to encourage the provision of a national minority status which guarantees the rights to effective participation in the administration to public affairs, including matters related to the protection and enhancement of their identity, and the passing and implementation of decisions concerning their place of residence” (section 5). Another important element of the Declaration is, inter alia, that it declares that national minority organizations may establish and maintain contacts with organizations or societies abroad on the grounds of common ethnic or nationality origin, cultural background, or religion. These organizations can apply for financial assistance, for other kinds of help, and for state subsidies, and decision-making related to such support shall be the responsibility of the Joint Committee (section 6). The Declaration also highlights that state bodies in charge of nationality and ethnic minority affairs should be set up by



democratic means, with the participation and with regard to the interests of all nationalities living in the given area; particularly organizations which represent their position (section 7).

Unconventionally (in relation to other bilateral treaties), a separate inter-governmental Protocol was annexed to the Declaration on the principles of cooperation for guaranteeing the rights of national minorities. This Protocol defines most precisely and broadly, from the six examined treaties, the proposed composition of the joint committee. According to the document, the Hungarian Party shall be represented by delegates from the Office for National and Ethnic Minorities, the Foreign Ministry of the Republic of Hungary, the Ministry of Culture and Education of the Republic of Hungary, the local government of Szabolcs-Szatmár-Bereg County, and the Ukrainian population of the Republic of Hungary. The Ukrainian Party is represented in identical numbers by delegates from the (then) State Nationality Committee of the Ukrainian SSR, the Foreign Ministry of the Ukrainian SSR, the Ministry of Culture of the Ukrainian SSR, the Ministry of National Education of the Ukrainian SSR, as well as from the Soviet of People's Deputies of the Sub Carpathian Territory and the Hungarian population of the Ukrainian SSR. The heads of the delegation are specified as being Foreign Ministry officials of the rank of deputy foreign minister (*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*, section 1). Other examined bilateral treaties do not define the circle of appointed committee representatives in similar detail, although by reason of changes in public administration in both countries, the above specifications are evidently only partially valid. It can also be observed, as highlighted above, that the conclusion of a separate declaration secured broader opportunities for Parties to deal with the issues of the joint committee. It is also highlighted by the document that the Committee shall meet twice a year, in general, alternately on the territory of the two Parties. The Committee shall also adopt recommendations for the Parties concerning the implementation of principles laid down in the Declaration with the consent of the Parties. For carrying out the recommendations of the Committee, Parties will resort to the relevant national institutions (sections 2-4).

Besides the Declaration, the two states concluded the Treaty on the Foundations of the Good-Neighborly Relations and Cooperation between the Republic of Hungary and the Republic of Ukraine in the same year. The document refers to the above-mentioned Declaration, thereby strengthening the aim that Parties should ensure the implementation of its commitments in order to grant and defend the ethnic, cultural, linguistic and religious identities of national minorities (*Declaration on the principles of cooperation...*, Article 17, and see also above in Chapter 2).

Turning to Hungary, censuses until the 1990s did not include the category of Ukrainian nationality and mother tongue; instead, the categories of Rusyn or Ruthenian nationality were available to choose from. After the adoption of the Act on the Rights of Nationalities of 1993, the situation changed by recognizing the Ukrainian national minority by law, followed by a period of mutual willingness of the states to build friendly bilateral relations with respect to national minority rights. However, there were significant differences, for instance, between the socio-demographic characteristics and political mobilization of the Ukrainian minority living in Hungary, and the Hungarian minority living in Ukraine. Furthermore, in the first half of the 1990s, the Ukrainian minority in Hungary started becoming self-organized. The State Association of Hungarian Ruthenians, as well as the Society of Ukrainian Intellectuals of Hungary, were established in 1991 (Dobos, 2019, pp. 5-7). The most important structural-organizational result of the aforementioned Hungarian Act on the Rights of Nationalities was the opportunity this created for the establishment of local and national minority self-governments as forms of cultural autonomy for the given minority, although the Ukrainian national minority did not designate a candidate for the first local elections of nationality self-governments in 1994. The main reason, supposedly, was the quite unstructured nature of the Ukrainian national minority. In 1998, five local nationality self-governments were established. Accordingly, the members of the National Ukrainian Self-Government in Hungary were elected as well. Due to this, the representatives of the Ukrainian minority were present in all minority consultative forums in Hungary (*Jegyzőkönyv a Nemzeti Kisebbségek Jogainak Biztosításával foglalkozó Magyar-Ukrán Vegyes Bizottság IX. üléséről*, Budapest, 1999, I/1.).

Concerning the situation of and legislation with regard to minority issues in Ukraine, in 1991, the Declaration of the Rights of Nationalities of Ukraine and in 1992, the Law on National Minorities in Ukraine (*Law No. 2494-XII of 25 June 1992 on National Minorities*) was adopted. The Law declared that the rights of persons belonging to

national minorities are an integral part of universally recognized human rights. The Law also guarantees to all national minorities the right to national-cultural autonomy, and to be elected or appointed to any position in the legislative, executive, or juridical bodies of local or regional self-governments, in the armed forces, and in enterprises or other establishments on equal terms (Article 1, Article 6, Article 9). Certain minority provisions also appear in the Constitution of Ukraine, adopted on 28 June 1996 that pronounces that the State promotes, inter alia, the development of the ethnic, cultural, linguistic, and religious identity of all indigenous peoples and national minorities of Ukraine (*Constitution of Ukraine*, 1996, Article 11). Furthermore, national minorities are guaranteed the right to receive instruction in their native language, and to study their native language in state and communal educational establishments and through national cultural societies (Article 53).

It should also be emphasized that the nation- and state-building efforts of the newly independent Ukraine at the beginning of (and generally throughout) the 1990s significantly defined relations with Hungary, as well as towards the Hungarian national minority living in Ukraine. As summarized in the previous chapter, since gaining independence in 1991, the aim of the Ukrainian leadership has been to support, revive, and protect the Ukrainian language in the country, which has been considered one of the most important features of independent statehood. As has been characteristic in other CE states, this has resulted in the neglect of minority languages, as well as the emergence of an oppressive attitude towards minorities, including the Hungarian community.

Without aiming to give an exhaustive overview, in the recent past the Law on Ensuring the Functioning of Ukrainian as the State Language was adopted by the Ukrainian Parliament in April 2019, which frames the efforts as well as opportunities for the development of relations, at least between Hungary and Ukraine. The aforementioned Law declares the Ukrainian language to be the only official state language, thus putting national minorities, including the Hungarians, into a disadvantageous position. Besides in private life, the Law strongly restricts the use of minority languages in the country – for instance, it allows for instruction in national minority languages in primary schools only *in addition* to instruction in Ukrainian (Kudriavtseva, 2019). The new regulation has not only been criticized by Hungary but also by other international bodies, also deepening the already conflictual relations between the two countries.

#### ***4.3.1. The structure of the Hungarian-Ukrainian Joint Committee***

Similarly to other bilateral committees, the Hungarian-Ukrainian body is led by the two co-chairmen from the Ukrainian and Hungarian side. The co-chairman of the Hungarian party has been delegated over the years by different governmental bodies occupying the function of the political state secretary of the Prime Minister's Office, the political state secretary of the Ministry of Foreign Affairs, and the president of the Office for Relations with Hungarians beyond the Borders. The present co-chairman of the committee is the Ministerial Commissioner responsible for Developing the Neighborhood Policy of Hungary of the Ministry of Foreign Affairs and Trade. The Ukrainian side has been led over the years by the Minister responsible for National Minorities, Migration and Religion, and by the Head of the State Office of the Ministry of Justice responsible for Minority Issues and Migration.

Concerning the national minorities participating in the commission, the Hungarian national minority was represented, according to established practice, by a member of the Transcarpathian Hungarian Cultural Association (*Kárpátaljai Magyar Kulturális Szövetség*, KMKSZ), set up in 1989 as a national-social organization to represent and protect the cultural, political and social interests of Hungarians living in Transcarpathia.<sup>39</sup> The Ukrainian minority living in Hungary were represented by the president of the Ukrainian National Self-Government of Hungary, which was established in 1998. In previous years, the Ukrainian Cultural Association, set up in 1991, has dealt with the issues of the Ukrainian national minority in Hungary. Since 2014, when the position of parliamentary spokespersons was created, the Ukrainian spokesperson would also have been entitled to represent the Ukrainian minority. However, given that fact that the last meeting of the committee was organized in 2011, the spokesperson did not have the opportunity to take part in the work of the committee. The other members of the committee, similarly to other bilateral committees, are delegated from different ministries and other organizations dealing with national minority issues, and are appointed, on the Ukrainian side, by government decision, and in Hungary, since 2008, by decree of the Prime Minister. The two countries held negotiations in the frame of the committee from 1992 until 2011; in the aforementioned period, 16 meetings were organized. At the last meeting in 2011 in Budapest, the Parties were unable to agree about several issues and thus did not sign the protocol. A crucial

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<sup>39</sup> For more information see the official website of the Association. Available at: <https://kmksz.com.ua/> (Last accessed: 5 July 2020).

issue – a proposal triggering perhaps the most hostility from the Ukrainian side – was that Hungary had initiated the setting up of a Hungarian administrative or electoral unit in Transcarpathia. This was unacceptable to Ukraine and viewed as a separatist claim by Hungary and the Hungarian minority living in Ukraine. While this was not the aim of Hungary, the proposal induced significant negative criticism towards the country from Ukraine, while stigma related to the idea of a separatist state and group was propagated in Ukraine in connection with Hungary and the Hungarian minority in Transcarpathia, causing animosity between the nation states and among the majority and Hungarian minority in Ukraine.<sup>40</sup> Although the two co-chairmen met in 2013 and in 2017 and agreed about the continuation of talks, subsequent committee meetings were not organized by the Parties.

As was experienced during the present process of examination, only a limited number of protocols are available concerning the Hungarian-Ukrainian relation, even after conducting thorough research on the issue. This is partially due to the fact that throughout the years several changes occurred in the public administration scheme of both states, altering the bodies responsible for the organization of committee meetings, and some of the documentation of past meetings, general processes, and briefings concerning the joint committee has vanished. Since 2011 and 2011, the previously mentioned conflictual relations started to worsen, not only because of the unsuccessful

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<sup>40</sup> In addressing some of problems and unresolved issues between the two countries, it is mainly the situation of the Hungarian community living in Ukraine that should be emphasized because their rights are often disrespected by the Ukrainian leadership. For instance, Ukrainian leadership and anti-Hungarian forces often trigger public disapproval of the Hungarian minority, which is, in many cases, also strengthened by the Ukrainian press. The linguistic rights of national minorities, including the Hungarian community, have been and are strongly restricted; for example, in January 2020 a new education law stated that Hungarian pupils can be taught in Hungarian only at kindergarten and until the fourth grade of primary education. Another education law accepted in 2017 defined the general rules of education in Ukraine, declaring that the language of education is Ukrainian, but besides teaching the state language, certain courses can be taught in a minority language (including in Hungarian) from kindergarten until university. The new language law accepted in 2020 terminated this right. Additionally, the Ukrainian language law accepted in April 2019 defined significant restrictions in connection with minority rights. The law makes the use of the Ukrainian language, apart from in private discussion and religious ceremonies, mandatory. Violations of the law may lead to legal sanctions, fines, and potentially, imprisonment. In connection with Hungarian education in Ukraine, significant problems have occurred in terms of hindering the publishing of minority language textbooks, as well as impeding those schools that teach in minority languages from acquiring these textbooks; also in terms of the decrease or abolition of state support for Hungarian ecclesiastical schools, etc. Other anti-Hungarian acts have also occurred in recent years – for instance, in 2017 Ukrainian nationalists held an anti-Hungarian procession in Beregszász/Berehove, while in 2018 the building of the Cultural Alliance of Hungarians in Romania in Ungvár/Uzhorod was set on fire several times. At the Ukrainian-Hungarian border, the pestering of Hungarian government officials, politicians, journalists, and other representatives has become systemic until our days (See Fedinec, 2019; Venice Commission (European Commission for Democracy through Law) Opinion on the Law on Supporting the Functioning of the Ukrainian Language as the State Language. 9 December 2019, Opinion No. 960 / 2019 CDL-AD(2019)032.).

last meeting of the committee and the inability of Parties to reach agreement, but based on an article analyzing the Ukrainian press in the years 2010 and 2011, the moves of the Hungarian government, the negative formation of Hungarian-Ukrainian relations, and the negative assessment of the Hungarian minority of Transcarpathia by Ukraine. In the Ukrainian press, members of the Hungarian community were denoted as citizens infringing the Ukrainian legal system, and Hungary as a revisionist country aiming to reestablish the past borders of Hungary, thus also as supporting the separatist movements of the Transcarpathian Hungarians who endanger the territorial unity of Ukraine. In the Hungarian press, unfriendly statements also appeared in connection with Ukraine, worsening the relations even further.<sup>41</sup> Of course, relations have become continually worse not only because the Ukrainian party has treated the Ukrainian minority and Hungary as enemies, which approach has been returned by Hungary, but the situation was preceded and accompanied by other serious problems such as unresolved issues in the frame of the joint committee, and the negative assessment of the Hungarian Status Law and the modification of the Hungarian electoral law by Ukraine. However, it is not the aim of present research to explain the background to these problems.

In summary, in the frame of the Hungarian-Ukrainian committee certain problematic issues concerning national minorities were dealt with and minor solutions were arrived at, but mainly during the initial phase of cooperation in the 1990s. It should be noted that the vast majority of meetings were organized in the aforementioned period, but after 2000 only a few meetings took place because of the deterioration in relations. Therefore, it can be concluded in general that the committee is definitely one of the least successful bodies established between Hungary and its neighbors. It should also be highlighted that the Hungarian side formulated and sent a draft protocol to the Ukrainian Party in 2013 in order to promote the continuation of negotiations and find shared solutions to debated issues, although the Ukrainian side has not replied or contacted Hungary until the present time, thus cooperation through this channel has been completely interrupted.

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<sup>41</sup> For an interesting summary of relations between Hungary and Ukraine in the years 2010 and 2011, based on articles appearing in the press of both countries, see: *Magyarország, ukrán-magyar viszony és a kárpátaljai magyarság kérdése az ukrán sajtóban 2011 decembere és 2012 februárja között*. Available at: <https://karpatalja.ma/karpatalja/nezopont/magyarorszag-ukran-magyar-viszony-es-a-karpataljai-magyarsag-kerdes-e-az-ukrainai-sajtoban-2011-decembere-es-2012-februarja-kozott/> (Last accessed: 2 November 2020.).

#### **4.4. The Hungarian-Slovenian Inter-governmental Minority Commission and the general situation of national minorities**

In the Hungarian-Slovenian relation, similarly to the previously described one, two agreements were also established in 1992: the *Convention on providing special rights for the Slovenian minority living in the Republic of Hungary and for the Hungarian minority living in the Republic of Slovenia*, signed in Ljubljana on 6 November 1992; and the *Treaty on Friendship and Cooperation between Slovenia and Hungary*, signed on 1 December 1992. It was not accidental that two documents were concluded with Slovenia at almost at the same time, since relations between the two countries could be characterized as friendly, and the approach of the two Parties towards national minorities has been similarly protective. In Slovenia, special rights were secured for the Hungarian community that in other Central European countries were unknown, even before the regime change, and even Hungary considered the Slovenian approach towards its minorities living abroad to be exemplary (Szilágyi, 2019, p. 114). Slovenia and Hungary show many similarities in this regard; however, a crucial difference is that, concerning the issue of national minorities, after 1919 the Slovenes sometimes successfully defended the interests of Slovenes living outside the border, even in the then-Yugoslav state, while after the Second World War Hungary did not have similar opportunities. Therefore, after 1990 Slovenia continued to protect its minorities with the positive strategies that lead to earlier results, while Hungary has had to build up, almost entirely, the support system for its minorities outside the border with new methods (Szilágyi, 2019, p. 109).

Commitments related to protecting the two most numerous national minorities living in Slovenia, the Hungarian and the Italian, were incorporated into several documents immediately after the former country became independent in 1991. The Constitution of Slovenia, adopted on 23 December 1991, protects and guarantees the rights of the autochthonous Italian and Hungarian national communities (*Constitution of Slovenia*, 1991, Article 5). Article 64 deals with the special rights of the autochthonous Italian and Hungarian national communities and guarantees their right to use their national symbols freely; in order to preserve their national identity, they are entitled to establish organizations and develop economic, cultural, scientific, and research activities. They also have the right to education and schooling in their own languages, as well as the right to establish and develop such education and schooling. The aforementioned article

also guarantees their right to foster relations with their nations of origin and their respective countries. Furthermore, in the geographical areas where they live, the self-governing local communities can exercise these rights, and those rights that the members of these national communities exercise also outside these areas are regulated by law.

In contrast with the Slovakian and Romanian approach, Slovenia recognizes the collective rights of national minorities. The above-mentioned basic treaty, the Treaty on Friendship and Cooperation between Slovenia and Hungary of 1992, declares that the members of the Hungarian minority living in Slovenia and the members of the Slovenian minority living in Hungary, individually or together with the members of their community, have the right to express freely, and to protect or improve their ethnic, cultural, linguistic, or religious identity, and to use their mother tongue freely in private or in public life (Article 16).

The bilateral committee on the issues of national minorities was established by the *Convention on providing special rights for the Slovenian minority living in the Republic of Hungary and for the Hungarian minority living in the Republic of Slovenia*. According to Article 15, Parties shall set up a *special inter-governmental minority Commission* for monitoring the implementation of the provisions of the Convention. On the structure of the Commission, the Article declares that governments shall delegate an appropriate number of representatives to the aforementioned body at every meeting, and the representatives of national minorities shall be appointed upon the proposal of their organizations. The inter-governmental Commission shall meet at least twice a year alternatively on the territory of the Contracting Parties. The tasks of the inter-governmental Commission are also defined by the document; these include discussing the current issues of both minorities, evaluating the implementation of obligations under the Convention, preparing and adopting recommendations for their respective governments concerning the implementation, and, in case of necessity, amendment of the Convention. The presence of national minorities is crucial not only in the Commission, but the Convention also highlights that the Parties, in conformity with their national legislation, shall ensure the appropriate participation of national minorities in adopting decisions at a local, regional, and national level concerning their rights and situation (*Convention on providing special rights...*, Article 8). The representation of national minorities in Slovenia is based on the concept that persons belonging to the



aforementioned groups participate in politics as dual political entities. In practice, this means that they participate on the one hand as citizens, and on the other as citizens with special national characteristics. These groups participate in politics in order to actively contribute to the establishment of mechanisms for the preservation of their ethnic identity that is highlighted by the aforementioned article as well (Komac, 2019, p. 99). Furthermore, Parties also shall ensure, based on the document, the participation of representatives of national minorities in the conclusion of treaties directly concerning the situation and rights deriving from the Convention (Article 11).

In connection with the Convention, it was also a forward-looking measure that the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was adopted by the General Assembly on 18 December 1992, two weeks after the conclusion of the Convention. Comparison of the texts of the two documents shows that in the bilateral treaty between Hungary and Slovenia all objectives were incorporated that were highlighted by the nine articles of the UN Declaration (Komac, 2019, p. 79). The protocol of the third commission meeting also emphasizes that the content of the Convention exceeds the recommendations of the aforementioned UN Declaration, the Council of Europe Framework Convention on the Protection of National Minorities, the European Charter on Regional or Minority Languages, and other international minority documents concerning numerous issues (*Jegyzőkönyv a Szlovén Köztársaságban élő magyar nemzeti közösség és a Magyar Köztársaságban élő szlovén nemzeti közösség különjogainak biztosításáról 1992. november 6-án aláírt Egyezmény rendelkezéseinek megvalósítását figyelemmel kísérő Magyar-Szlovén Kisebbségi Vegyes Bizottság IIL üléséről*, Lendva, 1997. november 4-5. I. rész). Although the appropriate participation of national minorities is not explained by the Convention, the effective practice of the two countries and the positive nature of political relations strongly influenced the aforementioned issue as well.

Hungarian legislation also defines respect for the rights of specific national minority groups, including Slovenes, residing in the country. The Act on the Rights of National and Ethnic Minorities of 1993 declares that “a national or ethnic 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 were formed in the course of history' and that these 'minorities have the right - as determined in a separate Act - to be represented in the National Assembly' (Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, 7 July 1993, Article 1(2) and Article 20). The Act has enabled minorities to establish local, regional, and national self-governments (Article 5). Due to the provisions of the Act, national self-governments were set up, first in Rábavidék (Porabje) in 1994, and subsequently in other parts of Hungary. In 1995, five Slovenian national self-governments, and three municipal and two direct self-governments were established, thereby setting up the Slovenian National Self-Government. The Act on the Elections of Members of Parliament of Hungary of 2011 secured further opportunities for national minority communities by enabling them to draw up national lists (Article 6), securing for these groups the right to be represented in the Hungarian Parliament by a parliamentary spokesperson of the given nationality. As a result of this regulation, the first nationality spokesperson of the Slovenian minority living in Hungary was able to start her work in the Hungarian Parliament from 2014.

As already mentioned, relations between the two countries can be characterized as 'good neighborly relations' not only on paper, but in reality as well. Even the protocol of the first commission meeting held on 4 April 1995 emphasizes the progress that was made concerning the participation of national minorities in decision-making processes of the society in Hungary and Slovenia. In Slovenia, the parliamentary representative of the Hungarian community was repeatedly elected, similarly to in the Hungarian National Council of Prekmurje/Muravidék, which consists of representatives of three municipal self-governments. Furthermore, the Hungarian Party has permanently supported the Alliance of Slovenes in Hungary, the social organization of the Slovenian minority, and the Slovenian Party has constantly supported the functioning of the self-governing and cultural organizations of the Hungarian community in Prekmurje/Muravidék as well (*Jegyzőkönyv a Magyar-Szlovén Kisebbségi Vegyes Bizottság I. üléséről*, Ljubljana, 1995. április 4., II. rész 4., 5).

In connection with the realization of the objectives of Hungarian-Slovenian committee meetings and signed protocols, it is important to highlight that the documents in Hungary are accepted by government decisions that become part of domestic law, while in Slovenia action plans are prepared from protocols that do not have the same binding

force as government decisions. Furthermore, governmental decisions, as mentioned, also define the bodies (ministries) responsible for the implementation of recommendations, making the processes more transparent, as well as to a certain degree, more enforceable.

#### ***4.4.1. The structure of the Hungarian-Slovenian Inter-governmental Commission***

As stressed above, the Convention establishing the Commission did not define either the exact members, including minority representatives, nor the sending organizations that should take part in the work of the Commission. Accordingly, similarly to most relations, the practice of commission membership was developed in the initial years of cooperation in both countries. The members of the Commission, similarly to other bilateral committees, include representatives of different ministries dealing with the issues of national minorities, or with those areas that affect the aforementioned group and are included in actual protocols. Additionally, on the side of the Hungarian community living in Slovenia, the president of the Hungarian Self-governing National Community of Prekmurje/Muravidék (*Muravidéki Magyar Önkormányzati Nemzeti Közösség*, MMÖNK) participates in the talks. MMÖNK is the central body representing the interests and political and self-governing activities of the autochthonous Hungarian community living in Slovenia, and was established in 1975, based on the Law on Self-Governing National Communities of 1994 adopted in conformity with the above-mentioned Article 64 of the Slovenian Constitution.

The Slovenian community living in Hungary is represented by the president of the Slovenian National Self-Government, by the president of the Association of Slovenians in Hungary, and since 2014, by the parliamentary spokesperson of the Slovenian minority living in Hungary. Therefore, the Slovenian national minority is represented by three minority representatives; besides the two minority participants that are generally involved in most relations in the work of the committee, in this relation a third person and institution is involved on a regular basis –

the president of the Association of Slovenians in Hungary. The latter body was established in 1990 and deals with a wide range of issues connected to the protection and promotion of the rights and identity of Slovenians in Hungary.<sup>42</sup>

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<sup>42</sup> For more information, see the official website of the Association available at: <http://www.zveza.hu/hu/>. (Last accessed: 20 July 2020).

Parties had organized 17 committee meetings until the end of 2019: the first meeting took place on 4 April 1995 and the last so far on 21 November 2017. At the talks, all protocols were signed, which can be considered a significant success, indicating a cooperative attitude on the part of both countries. The function of the co-chairmen throughout the years was attended to on the Hungarian side by state secretaries of the Prime Minister's Office, the president of the Office Responsible for Hungarians living Abroad, the Deputy Secretary responsible for National Policy of the Ministry of Public Administration and Justice, and presently by the Ministerial Commissioner responsible for Developing the Neighborhood Policy of Hungary of the Ministry of Foreign Affairs and Trade. The co-chairmen of the Slovenian delegation were state secretaries of the Ministry of Foreign Affairs, the president of the Government Office for Nationalities, the president of the Government Office responsible for Slovenes Abroad, and the present Minister of the Government Office responsible for Slovenes living outside the border and diaspora.

In conclusion, the Hungarian-Slovenian Commission is one of the best operating committees from the six bodies under examination concerning Hungary and its neighbors. This conclusion is made on basis of the nature of bilateral relations, the fulfilled objectives of the committee, and other aspects highlighted by the representatives of national minorities that are summarized in Chapter V. Furthermore, both Parties pursue protective policies towards national minorities living in their countries, taking into account their rights and promoting their interests and identity, as can clearly be seen, not only during the operation of the committee, but based on the introduction of other legal commitments, certain of which were referred to above. While in the frame of the Commission, not all minority issues were solved, and nor could all recommendations be implemented, the defining approach of both countries towards each other has mostly been cooperative and friendly, carrying forward the negotiation processes of the Commission.

#### **4.5. The Hungarian-Croatian Intergovernmental Joint Committee for the Protection of Minorities and the historical-legal situation of national minorities**

After the first multi-party elections of 1990, along with other republics of the former Social Federal Republic of Yugoslavia, Croatia began its transformation to a

parliamentary democracy and market economy. On 25 June 1991, the Croatian parliament passed a Constitutional Act on Independence and Sovereignty of the Republic of Croatia, formally severing its ties with the SFRY. The following period was characterized by a bloody war between the Serbs and Croats, leading to the UN intervention in February 1992, and the setting up of a monitoring mission in Croatia, with the help of the European Community Member States. The recognition of the independent and sovereign Republic of Croatia on 15 January 1992, as well as the recognition of the independence of the new republics, was, according to the international community, the only means of ending the military operations and preventing their escalation in other territories of the former Yugoslavia (*Minority Rights Group International Report on Croatia*, 2003, p. 9). As the wars continued between Croat and Serb-populated areas, and the government policies of both Croatia and Serbia were characterized by discrimination and the persecution of minority communities, the international community pressed the Croatian government to comply with domestic and international human rights standards. After the 1991-1995 Croatian war, the minority population decreased in the country to under 8%, and since that time ethnic minorities have been dispersed, thus territorially homogeneous ethnic minorities cannot presently be found in the country. The Republic of Croatia inherited from the SFRY a regime for minority rights protection that only covered some minorities (*Minority Rights Group International Report on Croatia*, 2003, pp. 12, 19). The Constitutional Law on Human Rights and Freedoms of National and Ethnic Communities was adopted in 1991, although only due to international pressure as a precondition of the country's recognition as an independent state. The Law was amended in May 2000 to deal mainly with, and set back, several rights of the Serb minority.

The Constitution of Croatia clarifies and specifies several national minorities in the context that the Republic of Croatia is the nation state of the Croatian nation and the state of the members of its national minorities – among others, of the Hungarian national minority (Part I). According to Article 15, equal rights are guaranteed for the members of all national minorities of Croatia, and it also declares that the protection of the rights of national minorities shall be regulated by a constitutional act. Furthermore, the right of the members of national minorities to elect their representatives to the Croatian Parliament may be stipulated by law (Article 15).

The *Treaty on Friendly Relations and Cooperation between the Republic of Croatia and the Republic of Hungary* was concluded on 16 December 1992 declaring, inter alia, that national minorities are bridges between peoples and make a valuable contribution to their societies (Article 2 (4)). According to the basic treaty, the Croatian national minority living in Hungary and the Hungarian national minority living in Croatia have the right, individually or together with other members of their community, to freely express, preserve, or develop their ethnic, cultural, linguistic and religious identity; to use their mother tongue privately or in public; and to disseminate and exchange information in that language (Article 17 (2)). The document refers specifically to the importance of the provisions of the UN Charter, the Helsinki Final Act, the Charter of Paris for a New Europe, and of the importance of other CSCE documents and international legal standards as well. Parties also undertake to solve problematic issues endangering international peace and stability through consultations based on the provision of the aforementioned documents (Article 6).

As is the case in some other relations, between Hungary and Croatia the joint committee was not established through the basic treaty, but by another bilateral document – namely, by the *Convention between the Republic of Hungary and the Republic of Croatia on the protection of the Hungarian minority in the Republic of Croatia and the Croatian minority in the Republic of Hungary*. The document was concluded in 1995 in Osijek, thereby establishing a joint inter-governmental committee for minorities in order to monitor the implementation of provisions of the Convention. Article 16 of the document declares that the governments of the Contracting Parties shall delegate an appropriate number of members to the committee, and members of the Committee from the respective minorities shall be appointed upon the proposal of minority organizations. The article also states that the committee shall meet as required, but at least annually, alternately in the Republic of Hungary and the Republic of Croatia. The joint committee has the following tasks, according to the Convention: it shall discuss current issues relevant to the two minorities; evaluate the implementation of obligations resulting from the Convention, and prepare and adopt recommendations for the two governments concerning the implementation and, if necessary, the modification of the Convention. It is also emphasized that the committee shall adopt its decisions by consensus (Article 16).

In several articles, the Convention deals with the issue of minority participation as well. Even in the introductory part, the document highlights that the two Parties are guided by

the purpose, inter alia, of legally protecting the national identity of the two national minorities in Hungary and in Croatia, “being convinced that the integration of minorities is possible only through the preservation of their features as ethnic communities, and that an important element of it is their *effective participation* at various levels in the decisions concerning their identity” (*Convention between the Republic of Hungary and the Republic of Croatia*, Introduction). The document, in connection with minority participation, declares that the Contracting Parties shall ensure the appropriate participation of minorities in local, regional and national decision-making process relevant to the rights and status of the minorities, as well as the material and other conditions required for the election and work of minority representatives in the Hungarian and Croatian representative bodies. Based on the article, Parties also undertake, being in close connection with the effective participation of minorities, not to change the administrative and territorial organizations of the state and local governments and electoral districts in a way that would be detrimental to minorities. In particular, Hungary shall ensure the support for the establishment and effective operation of the Croatian self-governments, and Croatia shall secure the right of the Hungarian minority to cultural autonomy and promote the free union and association of the Hungarian minority to preserve its national and cultural identity (Article 9). Furthermore, Article 12 emphasizes that Contracting Parties shall ensure that the representatives of minority organizations participate in the conclusion of those agreements which directly affect their status and rights, based on the Convention. It can be observed that the Convention contains positive and forward-looking conditions concerning both the tasks of the bilateral committee and the participation of national minorities in public affairs.

In connection with national minorities, the Constitutional Law on the Rights of National Minorities was adopted in 2002 and was welcomed in the Protocol of the sixth committee meeting (*Jegyzőkönyv a Magyar-Horvát Kisebbségi Vegyes Bizottság VI. üléséről*, Pécs, 2002. december 19). According to Article 7 of the Law, Croatia shall ensure the exercise of special rights and freedoms of national minority members they enjoy *individually or jointly* with other members of the same national minority or jointly with members of other national minorities, in particular with regard to: language use in private and in public, education, use of symbols, cultural autonomy through the preservation, development, and expression of their own culture, access to media,

representation in Parliament and in local government bodies, in administrative and juridical bodies, and their participation in public life and local self-government through the Council and representatives of national minorities. Article 19 highlights the opportunity of national minorities to be represented in the Croatian Parliament<sup>43</sup>, while Article 20 guarantees national minority members the right to representation in the representative bodies of local and regional self-government units. Furthermore, Article 35 facilitates the setting up of a Council for National Minorities to address issues related to the exercise and safeguarding of minority rights and freedoms.

The issue of national minorities was also dealt with among the two Parties by the *Treaty on cultural, educational and scientific cooperation*, signed on 16 March 1994, which refers to the Hungarian-Croatian inter-governmental committee on national minorities, highlighting that the Contracting Parties, regarding the recommendations of the inter-governmental committee, should pay particular attention to the full realization of the educational and cultural demands of the Hungarian minority living in Croatia and of the Croatian minority living in Hungary. According to the document, countries should focus on the claims connected to Hungarian and Croatian language use and culture, and on the mutual protection of cultural and historical heritage for the sake of the preservation of their identity, among other goals. In order to fulfill the aforementioned aim, the responsible bodies of the two Parties shall prepare a separate chapter that takes into account the recommendations of minorities, mainly in relation to the following areas: appointing experts and professors, providing book and textbooks for schools, organizing seminars, and granting scholarships (*Egyezmény a Magyar Köztársaság Kormánya és a Horvát Köztársaság Kormánya közötti Kulturális, Oktatási és Tudományos Együttműködésről*, 1994. március 16, 13. cikk).

#### ***4.5.1. The structure of the Hungarian-Croatian Inter-governmental Committee***

The structure of the committee is similar to that of the other bilateral bodies mentioned above; therefore this section focuses only on the persons and sending bodies of minority representatives. On the Hungarian side, the Croatian national minority living in

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<sup>43</sup> Constitutional Law on the Rights of National Minorities, Article 19 (3) and (4): (3) “A national minority with a share of more than 1.5% in the total population of the Republic of Croatia shall be guaranteed at least one and not more than three parliament seats in accordance with the law regulating the election of MPs. (4) National minorities with a share of less than 1.5% in the total population of the Republic of Croatia shall have the right to elect at least four MPs from among the members of national minorities in accordance with the law regulating the election of MPs.”



Hungary is represented by the president of the Croatian National Self-Government, which was established in 1995, and by the president of the Association for the Croatian Nationality in Hungary, a cultural, non-governmental organization of Croats established in 1990 that deals mainly with cultural issues concerning the Croatian national minority living in Hungary. From 2014 onwards, similarly to other committees, this circle was extended to include the Croatian parliamentary spokesperson. Therefore, in this relation, the number of minority representatives – as is the case in the Hungarian-Slovenian joint committee – is three participants. From the side of the Hungarian minority living in Croatia, the president or member of the Democratic Union of Hungarians in Croatia (*Horvátországi Magyarok Demokratikus Közössége*, HMDK) participates in the work of the committee. The latter is the non-governmental organization representing the interests of the Hungarian minority living in Croatia, established in 1993.

In Hungary, the Croatian National Self-Government was set up in 1995 based on Act 20/1949 on the Constitution of the Republic of Hungary (declared invalid in 2011 when the new Constitution was adopted), and of Act LXXVII of 1993 on the Rights of National and Ethnic Minorities. The most important task of the Self-Government is to represent the political and cultural interests of the Croatian minority living in Hungary. Accordingly, the Self-Government works to establish cultural autonomy and to construct the institutional framework, representing seven Croat subethnic groups (Bunjevci, Bosnians, Gradistye Croats, Croats from the Drava area, Dunament Croats, Croats of the Mura area, and Serbo-Croatians (Šokci)). The National Croatian Self-Government has taken over the position and several functions of the Alliance of Croats in Hungary.<sup>44</sup> The Alliance was established in 1990 as a political, cultural, and educational organization of Croats, but since the Self-Government was set up in 1995, it has dealt only with cultural issues.<sup>45</sup>

The inter-governmental committee was chaired over the years on the Hungarian side by the political state secretary of the Prime Minister's Office, by the president of the Office for Hungarians Abroad, by the deputy state secretary of the Ministry of Foreign Affairs, and the state secretary responsible for national policy of Hungary of the Prime Minister's Office. The present co-chairman of the Hungarian side of the committee is

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<sup>44</sup> Official website of the Croatian National Self-Government. Available at: <https://horvatok.hu/index.php/hu/> (Last accessed: 6 June 2020.).

<sup>45</sup> See the official website of the Association. Available at: <https://horvatok.hu/index.php/hu/szervezetek/egyesuletek/mhsz>. (Last accessed: 6 June 2020).

the Ministerial Commissioner responsible for Developing the Neighborhood Policy of Hungary of the Ministry of Foreign Affairs and Trade. The co-chairman of the Croatian side have been the Deputy Minister of Foreign Affairs, the Deputy State Secretary of the Ministry of Foreign and European Affairs, and is presently the president of the Central State Office for Croats Abroad.

In connection with organization of committee meetings, it should be noted that between 1995 and 2019 fifteen meetings were held, all resulting in the signing of protocols. Even the protocol signed at the first committee meeting emphasized the importance of the representation of the Hungarian minority in Croatia and the Croatian minority living in Hungary. The document highlights that the Hungarian national minority is represented by a parliamentary representative in the Croatian Parliament, and secures their mandate by a legal provision. It is also emphasized that the Croatian government continuously supports the functioning of the organizations of the Hungarian minority living in Croatia: the Democratic Alliance of Hungarians in Croatia, and the Association of Hungarians in Croatia. In order to protect and respect the interest of the Croatian minority, 51 Croatian minority self-governments were established in Hungary. The Croatian minority also set up the Croatian National Self-Government in Hungary, and the institute of the parliamentary commissioner on minority rights (ombudsman) came into existence. Furthermore, according to the aforementioned protocol, Hungary supports the functioning of Croatian minority self-governments in accordance with national legislation, and for this reason, the Public Foundation for National and Ethnic Minorities of Hungary was set up. Additionally, the government also materially supports the Alliance of Croats in Hungary, the social organization of the Croatian minority living in Hungary (*Jegyzőkönyv az 1995. április 5-én Eszéken a Magyar Köztársaság és a Horvát Köztársaság között megkötött, a Magyar Köztársaságban élő horvát kisebbség és a Horvát Köztársaságban élő magyar kisebbség védelméről szóló Egyezmény alapján létrejött kormányközi Kisebbségi Vegyes Bizottság I. üléséről, Zágráb, 1995. szeptember 25-26. I. rész, 5-6*). In other protocols, further references can be found in connection with forward-looking support, and its development, for both minorities. Croatia supports the organizations of national minorities from the state budget primarily in relation to the organization of different programs, based on domestic regulations. Hungary has developed a multi-channel support system for minorities that, in the case of the Croatian national minority, means that national and

local self-governments receive support from the central budget, and the Alliance of Croats in Hungary is financially supported based on tenders.<sup>46</sup>

The Hungarian-Croatian relation, similarly to the Hungarian-Slovenian one, is also one of the most effectively operating joint committees between the Parties. Both states have considered cooperation in the frame of the committee to be important, which can be observed not only in the organization of committee meetings, but also through the regulations countries have introduced in order to protect national minorities on their territories. In the present relation, it is also outstanding that the effective participation of national minorities was not only formulated in the Convention establishing the joint committee, but in other documents as well, and more importantly, on both sides practical means have been implemented to achieve the defined objectives.

#### **4.6. The Hungarian-Slovak Intergovernmental Joint Commission for the Protection of National Minorities and some crucial regulations concerning minority issues<sup>47</sup>**

Cooperation between Hungary and Slovakia accelerated in the middle of the 1990s, most likely at least in part because of the objective of both countries to become members of the European integration process, as previously mentioned. It can be observed that the international environment and institutions have motivated, to a large degree, the conclusion of bilateral treaties, at least in the case of certain countries. The *Treaty on Friendship and Cooperation between the Republic of Hungary and the Republic of Slovakia* was signed on 19 March 1995, mainly due to international pressure, as both states were candidate countries of NATO accession. National minority issues were included in the basic treaty itself; a separate document between the countries was not formulated, and, as a result, issues concerning national minorities have not been regulated or comprehensively dealt with. In the preamble of the basic treaty, Parties recognized that persons belonging to national minorities constitute an integral part of the society of the state in which they live, and contribute to deepening

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<sup>46</sup> See for instance the Protocol of the 7<sup>th</sup> meeting of the committee: Jegyzőkönyv a Magyar-Horvát Kisebbségi Vegyes Bizottság VII. üléséről, Zadar, 2005. május 5., 7-8. pont.

<sup>47</sup> The findings of this section have been published in the following articles, for more information see: Varga, Csilla (2019a): Past and Present Developments of the Hungarian-Slovakian Minority Joint Committee. KKI Studies, T-2019/01, Series of the Institute for Foreign Affairs and Trade, pp. 1-25; Varga, Csilla (2019b): A Magyar–Szlovák Kisebbségi Vegyes Bizottság múltja, jelene és elért eredményei. Fórum Társadalomtudományi Szemle, 21(2), Somorja, pp. 3-27.

the trust, friendship, and cooperation between the two countries. However, it is important to highlight that the Slovak attitude (very similar to the Romanian view) towards the protection of national minorities was, inter alia, characterized by a fear of securing group (collective) rights and offering any form of autonomy to national minorities. This contrasted with the Hungarian view, for instance, that for Hungary protecting the rights of national minorities beyond the borders has always been of crucial importance, as may be observed in its legislation and attitude towards national minorities living in the country and securing individual and collective rights for the aforementioned groups. The Treaty, according to the Slovak view, dealt only with “persons belonging to national minorities” and not with “minorities” per se (Jeszenszky, 1996, p. 128), thereby strengthening the interpretation of minority rights as individual rights only, without taking into account their collective nature. Furthermore, according to the decision of the National Council of the Slovak Republic that was annexed to the document, Slovakia emphasized that the Slovak Republic has never accepted and would not enshrine any such formulation into the Treaty that would recognize the principle of the collective rights of minorities, and would enable the establishment of any kind of autonomous structure or specific statute on the basis of ethnicity (*A Szlovák Köztársaság Nemzeti Tanácsának határozata a Szerződéssel a Magyar Köztársaság és a Szlovák Köztársaság között a jószomszédi kapcsolatokról és a baráti együttműködésről*, 272. számú irat) *történő egyetértés kimondásának tervezetéről*, Pozsony, 1996. március 26, paragraph b).

Turning to the establishment of the commission, in order to meet the objectives set out in the Treaty according to Article 15, Parties, in a spirit of mutual understanding and confidence, and due to a desire to exchange information and experiences about questions relating to the application of the treaty, set up an *intergovernmental joint commission* that is entitled to make recommendations, consisting of a section whose composition may be determined as they deem necessary (*Treaty on Friendship and Cooperation between the Republic of Hungary and the Republic of Slovakia*, Paris, 19 March 1995, Article 15 (6)). The Treaty also deals with the participation of national minorities in decision-making and emphasizes that “persons belonging to national minorities shall have the rights to *take part effectively* at the national, and where appropriate, at the regional level, in the decisions affecting the minorities or the regions inhabited by the minorities, in [a] manner which is not incompatible with the domestic legislation” (Article 15 (f)). The basic treaty is similar to the vast majority of other

examined documents in the sense it does not define the composition of the commission on either side.

In Hungary, the situation of the Slovak minority was similar to that of other minorities, being regulated by Hungarian law that secures the exercise of their rights, as well as supports them financially. The Hungarian Act 77/1993 on the Rights of National and Ethnic Minorities established the Slovak National Self-Government, similarly to other relations.

On the other side, in general, the signature of the Treaty did not bring about radical changes to the lives of members of the Hungarian minority living in Slovakia. In the country, in the year of the conclusion of the basic treaty, for instance, the Slovak government adopted the Law on State Language, largely restricting the use of minority languages – therefore, paradoxically, after the conclusion of the basic treaty, relations between Hungary and Slovakia started to worsen. The work of the three Mečiar governments from the beginning of the 1990s, and especially the latter's third period of government between 1994-1998 was characterized by the radical restriction of minority rights for the Hungarian minority living in the country. The state- and nation-building efforts of the leadership, similar to the Ukrainian and Slovak processes, led to hostile attitudes towards the Hungarian minority residing in the country, mainly for the reasons presented in the previous chapter. Furthermore, on the initiative of the Slovak National Party (SNS), restrictive measures were adopted in relation to education and in language policies, causing further division in society between the majority and minority, as well as in inter-state relations. Changes occurred only after the Slovak parliamentary elections in 1998, when the new government approached the issues of national minorities in a more cooperative manner. The Party of the Hungarian Coalition also became a member of the government undertaking the representation of the Hungarian minority in Slovakia.

In order to implement the objectives of the basic treaty, Parties, as indicated in the protocol on evaluation of the implementation of the basic Treaty signed on 24 November 1998, established 11 joint committees covering the most important policy areas between the two states (including the minority issue as well) (Kelemen, 1995). The work of the Joint Minority Committee started the following year, from 1999, and

by the end of 2019 countries had organized 14 meetings at which 13 protocols were signed; only the protocol of the twelfth meeting was not accepted by the Parties.

#### ***4.6.1. The structure of the Hungarian-Slovak Intergovernmental Commission***

Concerning the minority representatives taking part in the Commission, the Slovak minority living in Hungary is represented by the president of the Slovak National Self-Government and, since 2014, by the parliamentary spokesperson of the Slovak national minority.

For several years, the Hungarian side has also included the representative of the Party of the Hungarian Community (*Magyar Közösség Pártja*, MKP), the biggest Hungarian minority party in Slovakia. This unusual practice – that a member that should participate on behalf of the other side of the committee; here, on the side of the Hungarian delegation as a legal expert – is because the Slovak side, after a time, was not willing to include the member(s) of the above Party into the work of the Commission. From 2010, the Party was not been present in the Slovak Parliament, and its representatives, based on the decision of the Slovak government, could not participate in the work of the Commission either. For this reason, the Hungarian Party decided that the legal expert and member of the Party could take part in the work of the Commission on the side of Hungary. Consequently, the Hungarian community living in Slovakia is only represented on the Commission by certain experts or presidents who are members of Hungarian minority organizations; however, only on an occasional basis; the permanent presence of appointed minority representatives is lacking. According to Petőcz, the Hungarian minority in Slovakia does not have a self-governing body; therefore, at meetings of the Commission the community has been represented by members of parliament, mayors, or civil servants of Hungarian ethnicity. However, the latter can be hardly considered representatives of the Hungarian community because they are not elected by it, but rather by the whole population during the general election process (Petőcz, 2007, p. 81). On the other hand, for the Hungarian government the MKP is accepted as a representative of the Hungarian community in Slovakia. It can also be observed in other relations that the Hungarian government cooperates only with selected ‘allied’ minority parties, which include only one Hungarian minority party in each of the neighboring states. Therefore, in the case of Slovakia, Hungary did not and does not cooperate with the Most-Híd civic party; however, from 2010 onwards only the members of the aforementioned party participated in the work of the Commission,

as mentioned above. “This shows that it is not only and not necessarily the home-state that undermines the minority’s representatives’ legitimacy: the current Hungarian government selects parties that it considers legitimate representatives regardless of minority voters’ preferences, not only in Slovakia but also in other countries of the region” (Fiala-Butora, 2013, p. 190). However, in certain cases it would be useful to involve other minority parties or organizations into the work of commissions, besides the selected Hungarian minority party in each neighboring state.

The Hungarian side of the Commission has been led throughout the years by the representative of the political state secretary of the Ministry of Foreign Affairs, the political state secretary of the Ministry of Foreign Affairs, the political state secretary of the Prime Minister’s Office, the state secretary with special responsibility of the Prime Minister’s Office, the deputy state secretary of the Prime Minister’s Office, and presently by the Ministerial Commissioner responsible for developing the neighborhood policy of Hungary of the Ministry of Foreign Affairs and Trade. The role of the Slovak co-chairman has been fulfilled by the state secretary of the Ministry of Foreign Affairs of Slovakia, the deputy foreign minister, and presently, by a Consul General of the Ministry of Foreign Affairs.

Concerning the situation with national minorities, the protocols of meetings, in general, conclude the most important developments on relevant issues, as well as the areas to be improved so that minorities can enjoy their rights without restriction. According to the memorandum attached to the first protocol, Parties proclaim, inter alia, that in order to preserve European cultural values they will cooperate to protect the rights of Hungarians living in Slovakia and Slovaks living in Hungary. Knowing that national minorities form an integral and valuable part of society and the state, the work of the Commission facilitates and secures the conditions necessary for the preservation, expression, and development of the identity of people belonging to the Hungarian national minority living in Slovakia, and the Slovak national minority living in Hungary (*Jegyzőkönyv a Magyar-Szlovák Kisebbségi Vegyes Bizottság alakuló üléséről*, Budapest, 1999. február 8).

The text of the protocol of the second commission meeting touches upon the Slovak Act on the use of national minority languages (Act No. 184/1999 Z. z.) that entered into force on September 1999, defining the use of minority languages in official communications in municipalities where the proportion of the national minority

population reaches at least 20% of the population according to the results of the last census. The Act was welcomed by the Hungarian Party in the aforementioned protocol, although it was noted with regret that the content of the act includes serious shortcomings that should be revised in the future, and neither was it accepted by the Hungarian minority living in Slovakia. The Slovak Party emphasized that they consider the Act to be an important step towards improving the situation of national minorities in the country and are convinced that it fulfills the constitutional requirements and international norms concerning the issue, while it was also welcomed by European institutions (*Jegyzőkönyv a Magyar-Szlovák Kisebbségi Vegyes Bizottság II. üléséről*, Pozsony, 1999. szeptember 29. I. rész). The same protocol also highlights that the Hungarian Act 79/1993 on Public Education was modified in 1999 (*1999. évi LXVIII. törvény a közoktatásról szóló 1993. évi LXXIX. törvény módosításáról*, 1999. június 22). thereby setting up the proper legal and organizational framework for the professional development of the Slovakian minority living in Hungary. The Act enables an increase in the number of obligatory subjects taught in a minority language by 10 % in minority schools, and mandates that the development of the school curricula is led by a committee consisting of minority experts (*Jegyzőkönyv a Magyar-Szlovák Kisebbségi Vegyes Bizottság II. üléséről*, Pozsony, 1999. szeptember 29., II/3).

Another important step forward, also reflected in a protocol of the Commission, was that in December 2003 an Agreement between the Government of the Republic of Hungary and the Government of the Slovak Republic on the mutual educational and cultural support of national minorities was signed in order to preserve and improve the cultural and linguistic identity of individuals belonging to the national minorities living in both countries. The Agreement declares that Parties shall support the financing of educational and cultural institutions that contribute to the protection and promotion of cultural and linguistic identity of members of the Slovak and Hungarian national minority living in both countries (Article 2). The implementation of the Agreement is reviewed annually by the Hungarian-Slovak Minority Commission in accordance with the legal order of the Parties (Article 6). The adoption of the document was welcomed by the protocol of the fifth meeting because demonstrated the efficiency of cooperation between the Parties (*Jegyzőkönyv a Magyar-Szlovák Kisebbségi Vegyes Bizottság V. üléséről*, Budapest, 2005. november 15., I. rész). Nonetheless, the same protocol emphasizes that the representatives of the Hungarian minority living in Slovakia and of the Slovakian minority living in Hungary play an active role in the work of the



Commission in terms of enabling that the special needs and demands of national minorities can be clearly expressed, and that important recommendations can be formulated for both Parties (Part I).

Linguistic issues have remained one of the most debated topics of Commission meetings since the initial phase of cooperation. The Slovak Act on state language of 1995 was modified in 2009 (*Zákon č. 270/1995 Z. z. Zákon Národnej rady Slovenskej republiky o štátnom jazyku Slovenskej republiky, 9 December 1995 has been modified by Zákon č. 318/2009 Z. z. Zákon, ktorým sa mení a dopĺňa zákon Národnej rady Slovenskej republiky č. 270/1995 Z. z. o štátnom jazyku Slovenskej republiky v znení neskorších predpisov a o zmene a doplnení niektorých zákonov, 31 September 2009*). being considered by the Hungarian Party as a legal restriction strictly controlling the use of state language in Slovakia, thus restrictive of minority languages. Based on the related protocol, at the ninth meeting of the Commission, the Slovak Party assured Hungary that with the application of the Act none of the constitutional and legally guaranteed linguistic rights were violated in any form (*Jegyzőkönyv a Magyar-Szlovák Kisebbségi Vegyes Bizottság IX. üléséről, Budapest, 2009. július 17. II. rész*). On the Hungarian side, the Hungarian Act 203/2011 on the elections of the members of the Hungarian Parliament was welcomed by Slovakia as developing the representation of national minorities in Hungary, and introducing, as already mentioned, the institution of national minority spokesperson and the drawing up of national minority lists (*Jegyzőkönyv a Magyar-Szlovák Kisebbségi Vegyes Bizottság XI. üléséről, Budapest, 2012. november 7. II. rész*).

Based on the material presented above, as well as certain other conclusions and recommendations of protocols, it can be observed that in the present relation progress has not been achieved in many areas – at least not to the extent that both Parties expected. Considering the results of the Hungarian side, it secured an appropriate framework for the protection of national minorities, including the Slovak national minority living in the country. The Slovak side, in a number of cases, as often incorporated into the protocols, accepted regulations contrary to the objectives of the Hungarian national minority, as well as Hungary, in some way restricting the rights of national minorities. Furthermore, the nature of political relations between the two countries has also strongly affected the work of the Commission – albeit this statement may be formulated as a general conclusion in connection with the work of all

committees. The Hungarian-Slovak relation was characterized by frequent conflicts and disagreements, in many cases exactly because of the disadvantageous situation of the Hungarian national minority living in Slovakia.<sup>48</sup> In spite of this, commission meetings were organized relatively often, and work has not been cancelled until the present time, while greater or lesser successes have been achieved through the implementation of some specific objectives, therefore the body could be said to represent the ‘middle ground’ between the work of well-operating and non-operating committees.

#### **4.7. The Hungarian-Romanian Intergovernmental Commission on National Minorities and its historical surrounding**

After the First World War and the conclusion of peace treaties, Romania’s minority population increased by over 18 percent, and in return for the acquisition of new territory, Romania was obliged to follow the provisions of international human rights agreements. However, the government pursued a vision of a homogenous nation state, into which minorities should be integrated. During the communist regime, especially in the 1960s, nationalism started to be linked with the communist ideology, and the idea of a homogenous Romanian society was the basic priority of this agenda, which pursued a process of minority assimilation. The Ceausescu era ended in 1989, leaving a legacy of such thinking, which may also be the reason why the case of Romanian is fundamentally different to that of other Central and Eastern European countries. After

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<sup>48</sup> Besides the mentioned conflicts between the two states, mainly concerning the Hungarian national minority living in Slovakia (such as linguistic and educational problems), other areas should be mentioned that to a certain degree negatively influence the relations of the two countries even until the present time. For instance, a different interpretation of history by the countries leads to conflict mainly in terms of Slovak education, with history textbooks often falsifying past events connected to Hungary and Hungarians, to the Hungarian minority residing in Slovakia, as well as exaggerate the origins and historical roots of Slovaks. This misinterpretation of historical events and consideration of Hungarians and Hungary as past oppressors of Slovaks with separatist claims towards Slovakia even until the present day deepens disagreements between the two states and the division between the majority and Hungarian minority in Slovakia. A further issue is that the Slovak citizenship law of 2011, as mentioned above, prohibits dual citizenship, therefore persons acquiring the citizenship of another state lose their Slovak citizenship. This affects the Hungarian national minority residing in Slovakia, although other national minorities have been more significantly affected. The citizenship law may be considered a response of the Slovak government to the 2001 Status Law of Hungary that secured benefits for the Hungarian national minority outside the border that, according to the majority of the then-Slovak leadership, was a kind of intervention into the internal affairs of the country. It is also emphasized in other countries, such as in Romania and Ukraine in particular, that certain moves of Hungary deteriorate the concept of intervention, although according to Hungary they are considered as providing for their ethnic kin minority in neighboring states (See, inter alia, Fiala-Butora, 2013; Hardi – Mezei, 2015; Petőcz, 2007; Szabó Mihály, 2006; Vajda, 2016; Vass, 2013, as well as [felvidek.ma/2017/10/a-szlovak-tortenelemtankonyvek-hibairol/](https://felvidek.ma/2017/10/a-szlovak-tortenelemtankonyvek-hibairol/) (Last accessed: 21 November 2020).

1990, due to the impact of European institutions and international expectations, efforts to build up a positive image of Romania somewhat improved, but interethnic relations required significant development (Magyari et al, 2008, pp. 4-6).

Concerning regulations related to national minorities in Romania, the Constitution of 1991 “guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity” (Article 6(1)). It also gives the organizations of citizens belonging to national minorities who fail to obtain the number of votes required for representation in Parliament the right to one Deputy seat each (Article 62(2)). Furthermore, national minorities, in the territorial-administrative units where they have significant weight, can use, orally and in writing, their language in administration and decentralized public services, as well as before the courts (Article 120(2), Article 128(2)). There are several other regulations – for instance, the Romanian Law on Local Public Administration of 2001 (*Law on Local Public Administration No. 215/2001*, 25 May 2001) and the Law of National Education of 2011 (*National Educational Law no. 1*, 5 January 2011) – that contain important provisions concerning national minorities as well, but these regulations are not analyzed in the present research.

The *Treaty on Friendship, Cooperation and Good Neighborliness between the Republic of Hungary and Romania* was signed in 1996, also mainly due to international pressure, as the countries were NATO candidate countries at the time, as mentioned above, and, without their reconciliation, agreement on minority and other issues could not have been achieved. The document recognizes, inter alia, and similarly to other bilateral treaties, that national minorities constitute an integral part of society and that their protection is part of the international protection of human rights, thereby contributing to stability and understanding in Europe (Introduction). For the implementation of the provisions of the Treaty, Parties established an *intergovernmental expert commission* to examine, in the framework of regular consultations, the issue of their bilateral cooperation related to national minorities (Article 15 (10)). The Treaty only mentioned the establishment of the commission, and did not define any further details concerning its functioning, meetings, procedures, or representatives taking part in its work, since the *Appendix of the Protocol on the establishment of the Joint Romanian-Hungarian Commission on Active Participation and Partnership* accepted on 12 March 1997 contains a more detailed overview of the operation of the body.

Furthermore, the Treaty highlights that the “Contracting Parties shall ensure the right of persons belonging to national minorities to *effectively participate*, individually or through their parties or organizations, in the political, economic, social and cultural life and, through their representatives elected to central and local public authorities and administrations, in the settlement of issues representing national or local interest. Both Contracting Parties shall, in the process of decision-making concerning questions related to the protection and enforcement of the national identity of these persons, consult the organization, political parties or associations of these persons according to democratic decision-making procedures as provided by law” (Article 15 (5)).

It should also be noted that, prior to the adoption of the Hungarian-Romanian basic treaty, the two States accepted the Joint Declaration of the Prime Ministers of the Republic of Hungary and of Romania on 19 March 1995, highlighting that in accordance with the spirit of the Conference on the Stability Pact, the Parties had almost finished negotiations concerning this fundamental treaty of historic importance between them, based on European norms, including the rights of persons belonging to national minorities. The aim of becoming a “player” in the European integration process in large fueled the cooperative attitude between the two countries.

A short while later, the Protocol on the establishment of the Joint Romanian-Hungarian Commission on Active Participation and Partnership, accepted on 12 March 1997, dealt with a wide range of issues concerning the interests and relations between the two countries. In the frame of the bilateral Commission, special committees were set up in order to facilitate cooperation in relation to the fields of foreign policy, European security, economic issues, trans-frontier cooperation, etc., including the Special Committee for cooperation on minority issues (*Protocol concluded between the government of Romania and the Republic of Hungary on the establishment of a Joint Romanian-Hungarian Commission on Active Participation and Partnership*, Temesvár/Timisoara, 12 March 1997, Article IV) which according to the basic treaty was specified as the intergovernmental expert commission. The Protocol, or more precisely, the Appendix of the Protocol, defines the conditions for operation of the Joint Commission, consisting of nine special committees and being composed of its presidents and secretaries, the presidents of the Special Committees and of the persons nominated by the Parties. The document also highlights that the Co-Presidents of the Commission may invite to the sessions the representatives of the organizations of the

Hungarian and Romanian national minorities from the two countries (Appendix, Article 2, 4). The Commission shall meet in biannual sessions, in Romania and the Republic of Hungary alternatively, and the co-presidents may agree about convening extraordinary sessions as well (Appendix, Article 3). The document also defines that the special committees shall convene in working sessions whenever necessary, but at least once a year, in Romania and the Republic of Hungary alternatively. The activity of the Special Committees shall be reviewed during the sessions of the Joint Commission. It is also important to mention that the protocols or decisions of the sessions of the Joint Commission and the Special Committees shall be submitted for approval to the governments of the two states (Appendix, Article 5, 6). In the text of the Protocol it is included, as seen above, that Parties *may* invite the representatives of both national minorities to the Commission, which is different from other treaties that establish joint committees, as the Protocol only gives the opportunity, but does not prescribe the obligation, of including minority representatives in the talks.

#### ***4.7.1. The structure of the Hungarian-Romanian Intergovernmental Commission***

As a precursory remark, it should be noted that during the present research difficulties were encountered accessing the protocols and other documents of the Commission, and even after carrying out considerable research only a few protocols were accessed. The main reason for this is presumably – similar to with the documents of the Hungarian-Ukrainian committee –that the governmental bodies responsible for the preparation of commission meeting changed a few times throughout the years on both sides, so a significant part of the documentation of the commission meetings has vanished. Furthermore, the organization of commission meetings was interrupted due to the deterioration in relations between the two states, and the Parties have not organized meetings for the last almost 10 years.

Based on the protocols of the meetings that are available, as well as on general research, the Commission was led on the Hungarian side by the political state secretary of the Prime Minister's Office and by the deputy state secretary responsible for National Policy. The present co-chairman of the Commission is the Ministerial Commissioner responsible for Developing the Neighborhood Policy of Hungary, although in the absence of committee meetings he has not been able to co-chair any meetings yet. The

co-chairman of the Romanian Party in the past was the state secretary of the Romanian Ministry of Foreign Affairs.

The Hungarian minority living in Romania, one of the biggest national communities in Europe living outside their kin-state, was represented by the members of the Democratic Union of Hungarians in Romania/UDHR (*Romániai Magyar Demokrata Szövetség/RMDSZ*), which was established in 1989 after the fall of the communist regime, representing the interests of the Hungarian community in Romania at the state, regional and local level. The Romanian minority living in Hungary was represented by the president of the Romanian National Self-Government of Hungary, set up in 1995; and since 2014, although only theoretically, by the national spokesperson of the Romanian minority living in Hungary, since no commission meetings have actually taken place since the assignment of the spokesperson.

From the accessible protocols, it can be observed that in the Hungarian-Romanian relation meetings took place during several rounds, implying that Parties could not easily reach agreement in connection with particular issues, even at those times when the committee meetings were organized. For instance, the seventh meeting of the Commission was organized in Bucharest on 3 July 2007, then in Budapest on 25 September 2007, then again in Bucharest on 7-8 May 2008, and on 14 July 2009, at which the protocol was signed by the Parties (*Jegyzőkönyv a Magyar Köztársaság és Románia Aktív Együttműködési és Partnerségi Kormányközi Vegyes Bizottsága Kisebbségügyi Együttműködési Szakbizottsága VII. üléséről*, Bukarest 2007. július 3., Budapest 2007. szeptember 25., Bukarest 2008. május 7-8., 2009 július 14.). Although the protocol of the sixth meeting emphasized the important role of the Hungarian minority living in Romania and of the Romanian minority living in Hungary as bridges between the two nations, as well as welcomed positive developments such as the ratification of the Romanian EU accession treaty by Hungary, and the participation of the Democratic Alliance of Hungarians in Romania in the government (*Jegyzőkönyv a Magyar Köztársaság és Románia Aktív Együttműködési és Partnerségi Kormányközi Vegyes Bizottsága Kisebbségügyi Együttműködési Szakbizottsága VI. üléséről*, Battonya, 2005. december 15.) in the frame of the commission, in general, only a few minor objectives were implemented. When Romania became a Member State of the EU in 2007, Parties expressed their hope in a protocol that the EU membership of both countries would create even better opportunities for cooperation between the two states

in order to develop the protection of national minorities, as well as for working together in EU bodies. It was also emphasized, though, that the previously formulated recommendations, had not yet been implemented in certain cases, or had only been realized slowly (*Jegyzőkönyv a Magyar Köztársaság és Románia Aktív Együttműködési és Partnerségi Kormányközi Vegyes Bizottsága Kisebbségügyi Együttműködési Szakbizottsága VII. üléséről*). However, the above-described hopes of the Parties could not be realized, even at those times when commission meetings were organized.

At the last, eighth meeting of the Commission in June 2011, Parties could not reach agreement on certain issues, therefore the protocol was not signed; moreover, already conflictual relations started to worsen, and the organization of further commission meetings was not achieved. This last draft protocol was amended several times throughout the years by both Parties, and the secretaries of the two sides met in July 2016 to try to find common solutions, although this meeting was not followed by further talks. The present Hungarian co-chairman of the commission also contacted the Romanian Party in an official letter in 2019 in order to initiate the continuation of negotiations. However, the Romanian side did not reply to the request.<sup>49</sup> The biggest obstacle to cooperation is that Parties handle and relate to national minority issues in a significantly different way. Reaching agreement on the issues arising in the last protocol, as well as in other areas, seemed and seems quite unlikely, mainly because of certain violations of rights of the Hungarian national minority living in Romania – for instance, in connection with the use of the Hungarian language in public, the use of symbols, opportunities in minority education, and so on.<sup>50</sup> It is also notable that,

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<sup>49</sup> Based on the personal experience and knowledge of the author working at the Cabinet of the Ministerial Commissioner responsible for Developing Neighborhood Policy of Hungary, who also occupies the position of the Hungarian co-chairman of the six bilateral committees on national minorities.

<sup>50</sup> In 2020, some pending issues between the two Parties related to the protection of the rights of national minorities in Romania include the following: restitution cases of property nationalized during the communist period affecting the Hungarian national minority and Hungarian churches (for instance, the Roman Catholic Church – Batthyáneum; Reformed Church – Székely Mikó High School; Marianum building in Cluj-Napoca; Saint Ladislaus Hospice for the Care of Beggars and Boys in Oradea; Bethlen Gábor College in Aiud; Bethlen-Bánffy property, and so on). Furthermore, in minority education certain other violations have occurred; for instance, fewer classes specializing in Hungarian, a shortage of Hungarian-speaking teachers, and a shortage of textbooks in Hungarian in all three counties of Seklerland (Harghita, Covasna, and Mureș); the designation of Hungarians and the Hungarian State as an oppressive power, and as occupiers, thereby increasing anti-Hungarian sentiment; Merging the University of Medicine and Pharmacy of Târgu Mureș with the state-led Petru Maior University teaching in Romanian, making the functioning of an independent Hungarian section impossible; the administrative obstruction of the smooth functioning of the Roman Catholic II Rákóczi Ferenc Lyceum in Târgu Mureș, etc.). Restrictions also occur in connection with the use of the mother tongue in judicial practice, in access to judicial proceedings, in the right to be informed of judgments, as well as in the use of symbols (protests included setting fire to the Hungarian flag in the Black Eagle Palace in Oradea; deeming that Székely and

generally, protocols in other relations, as well as the former Hungarian-Romanian protocols, are relatively modest documents in terms of their scope, reaching 10-15 pages at most. However, the most recent version of the Hungarian-Romanian draft protocol, after certain modifications by both Parties, presently amounts to around 70 pages, which is unprecedented in relation to the other examined relations, but also shows the number of problematic issues, as well as differing approaches of the two States.

In summary, the work of the Hungarian-Romanian Commission can be evaluated only on the basis of past events and talks, as is more widely accomplished in Chapter V based on the experiences of minority representatives, since its operation came to a standstill almost 10 years ago. Even when the body occasionally held its meetings, relations between Parties have mostly been unfriendly, with crucial and numerous disagreements meaning that in the frame of the Commission only minor issues could be solved. Furthermore, the latter accomplishments were beneficial mainly for the Romanian national minority living in Hungary. Most of the time, the Romanian side has considered the Hungarian national minority, as well as Hungary, to be its opponent, not as a group and a state that cooperation should be facilitated with. This claim is also strengthened by the interviews prepared with minority representatives, as summarized in the next chapter. While this has been the case, it should be highlighted that former commission meetings have, to a certain degree, decreased the tension between the Parties, although nowadays even this opportunity is lacking. The lengthy draft of the last protocol contains a wide range of topics Parties are not able to reach agreement about, and the adverse approach of Romania towards national minority issues does not raise much hope for positive results in the near future either.

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municipal flags could not remain on the flagpoles in front of the Town Hall of Băile Tuşnad; removing the Hungarian and Székely flags from the ceremonial hall of Covasna County Hall; fines regularly imposed on the mayors of the larger municipalities of Seklerland for displaying Hungarian national symbols on the national holiday of 15<sup>th</sup> March). Other issues that may be mentioned are, for instance, the activities of anti-Hungarian groups initiating legal proceedings against Hungarians; the unlawful seizure of the Valea Uzului military cemetery (<https://kozvita.transindex.ro/?kozvita=655>); other anti-Hungarian acts and statements, including hate speech and hate crimes, as well as the actions of the National Anticorruption Directorate against Hungarian politicians, etc. (See Kántor and Pászkan, 2020; Kiss et al, 2018).



#### **4.8. The Hungarian-Serbian Intergovernmental Joint Commission on National Minorities and the historical-legal background**

The Balkans, and more specifically the former Social Federal Republic of Yugoslavia, was wracked by many tensions and conflicts in the second half of the twentieth century. This may be why the joint commission between Hungary and Serbia was established relatively late, in the 2000s, compared to the five other countries and committees under examination.

After the First World War, Serbia was a part of the Kingdom of Serbs, Croats, and Slovenes in which different historical, cultural, and linguistic traditions were present. This structure was governed from Belgrade and forced the use of the Cyrillic alphabet on Croats, denying Macedonians the right to education in their own language. After the Second World War, the communist regime established the Socialist Federal Republic of Yugoslavia, involving many tensions between nationalities. The new constitution of 1974 awarded substantial rights of self-government to the Serbian provinces of Kosovo and Vojvodina, but these were revoked in 1989. During the wars of 1991-1995, the ethnic make-up of the Balkans radically changed. Of the just over 23 million inhabitants of Yugoslavia in 1991, 35.3% were Serbians, 19.2% Croatians, 10.2% Muslim, 9.4% Albanians, 7.5% Slovenian, 6.1% Macedonian, and 2.6% Montenegrin, to which other ethnic groups in smaller proportions may be added that were spread across all the provinces. Slobodan Milosevic, leader of the communist party since 1986 and of Serbia since 1989, became aware of the efficiency of using nationalism as a political weapon and brought back centralized control to the Kosovo region and fueled Serbian nationalism in order to create connections between ethnic Serbians from the various republics of the federation (Defense Matters, 2016).

*The Dayton Accords*, signed in December 1995, ended the conflict arising from the breakup of the Republic of Yugoslavia between 1991-1995; however, problems escalated in the Kosovo region. After the Milosevic-led attacks in Kosovo, NATO intervened in 1999, and Belgrade withdrew its forces from Kosovo, allowing the province to be put under UN administration. At the beginning of the 2000s, attempts at democratic transition were initiated, but not with great success, and in 2003 the EU exercised strong pressure to engineer a new state union to take the place of the Federal Republic of Yugoslavia: namely, the state of Serbia and Montenegro. In 2006, the union between Serbia and Montenegro was dissolved when Montenegrins approved a referendum on independence. The Republic of Serbia was the legal successor of the

State Union of Serbia and Montenegro. In February 2008, Kosovo declared independence, and was recognized by many states around the world (Minority Rights Group World Directory of Minorities and Indigenous Peoples on Serbia, n.d.).

Turning to bilateral documents and relations between Hungary and Serbia, Hungary has not concluded a treaty on good neighborly relations and cooperation with Serbia (and nor did it with the Socialist Federal Republic of Yugoslavia, the Federal Republic of Yugoslavia, Serbia and Montenegro, or later with Serbia). At the beginning of the democratic transition in Serbia, the *Treaty between the Republic of Hungary and Serbia and Montenegro on the protection of Rights of the Hungarian Minority living in Serbia and Montenegro, and the Serbian Minority living in the Republic of Hungary* was concluded in October 2003. A special Intergovernmental Joint Commission on National Minorities was set up in order to monitor the implementation of the agreement. This body pronounces that Parties should appoint an equal number of Commission members, with the *mandatory participation* of representatives of the national minorities. The Treaty defines that the members of the Commission who are representatives of the Hungarian national minority in Serbia and Montenegro shall be appointed at the proposal of the Hungarian National Council of Serbia and Montenegro, and representatives of the Serbian minority in Hungary at the proposal of the Country Self-Government of the Serbs in the Republic of Hungary. The aforementioned article also declares that the Commission shall hold its meetings as appropriate, but at least once a year, alternately on the territory of Serbia and Montenegro or the Republic of Hungary. The Commission is responsible for discussing current issues related to both national minorities, reviewing and evaluating the achievement of commitments arising from the agreement, and submitting recommendations for implementation to both governments, who may adopt its decisions following consensus from the two sides (Article 16). The Treaty, compared to certain other examined bilateral documents, creates a more transparent situation in the sense that it specifies that the bodies' minority representatives should be appointed to the Commission. The document, in connection with the participation of minorities in public life, emphasizes that Parties, in conformity with national legislation, shall recognize the right of national minorities to participate in public life, and also to effect adequate measures for ensuring their participation in decision-making processes that affect them, and ensure their appropriate representation in public services, including the police, at local, regional and state levels. Additionally,

with respect to employment, the ethnic composition of the population and the knowledge of language spoken in the area, and the material and other conditions necessary for the work carried out by minority representatives in the representative bodies, as well as for their election to such bodies at all levels (Article 8). It is also stressed in the document that the Parties shall pay particular attention to supporting the activities of the Hungarian National Council in Serbia and Montenegro, and the Country Self-Government of the Serbs in the Republic of Hungary (Article 9 (3)).

Besides the referred-to document, a basic treaty has not yet been established between the two parties. As highlighted, in Hungary signed protocols that are accepted by government decisions have a binding nature and specify the governmental bodies responsible for the realization of objectives incorporated into the protocols. In Serbia, this practice is lacking, although the protocol of the first meeting recommends that both Parties strengthen these documents by government decisions that define the specific governmental bodies responsible for the realization of objectives (*Jegyzőkönyv a Magyar-Szerb és Montenegrói Kisebbségi Vegyes Bizottság I. üléséről*, Budapest, 2004. november 30., I/8). The protocol of the fourth meeting also recommends that the Serbian Party discuss the opportunity for the more efficient implementation of protocols, as occurs with the Hungarian Party (*Jegyzőkönyv a Magyar Köztársaságban élő szerb kisebbség és a Szerb Köztársaságban élő magyar kisebbség védelméről szóló, 2003. október 21-én megkötött magyar és szerb-montenegrói Kisebbségvédelmi Egyezmény végrehajtását figyelemmel kísérő Magyar-Szerb Kisebbségi Vegyes Bizottság IV. üléséről*, V/1).

#### ***4.8.1. The structure of the Hungarian-Serbian Intergovernmental Joint Commission***

Concerning the minority representatives taking part in the work of the Commission, the Serbian minority living in Hungary is represented by the president of the Serbian National Self-Government in Hungary established in the 1990s, and since 2014 by the parliamentary spokesperson of the Serbian national minority. The Hungarian minority living in Serbia is represented by the president or by the member of the Hungarian National Council (*Magyar Nemzeti Tanács*, MNT/HNC), the national self-governmental organization of the Hungarian minority living in Serbia. The constitutional meeting of the HNC took place in 2002, and its main objective is to represent the interests of the

Hungarians in Serbia concerning their education, culture, language use, and other issues.

The Hungarian side of the Commission has been led throughout the years by the political state secretary of the Prime Minister's Office, by the state secretary responsible for national policy of the Prime Minister's Office, by the deputy state secretary responsible for national policy of the Ministry of Public Administration and Justice, and presently by the ministerial commissioner responsible for Developing the Neighborhood policy of Hungary of the Ministry of Foreign Affairs and Trade. On the Serbian side, the co-chairman of the Commission was the minister responsible for human and minority rights, the chairman of the Executive Council of Vojvodina, and presently the state secretary of the Ministry of Construction, Transport and Infrastructure. Parties, until the completion of the present thesis, have organized five commission meetings, the first in November 2004, and the last in April 2016, and in the frame of negotiations all protocols were signed by the countries. Since 2016, Parties have not organized commission meetings, although this was not because of the worsening of political relations, but mainly due to the fact that other political events and negotiations have enabled Parties to reach agreement on certain issues that caused the delay of subsequent meetings.

Even the protocol of the first Commission meeting stressed and appreciated the importance of the political, educational, cultural and informational institutionalization of the Hungarian and Serbian national minority living in both countries that successfully took place in 2003-2004. According to the protocol, the Commission considers the role of the Serbian National Self-Government of Hungary and the Hungarian National Council in Vojvodina to be crucially important, and sees the latter as the most significant promoters of the local realization of autonomy (*Jegyzőkönyv a Magyar Köztársaságban élő szerb kisebbség és a Szerb Köztársaságban élő magyar kisebbség védelméről szóló, 2003. október 21-én megkötött magyar és szerb-montenegrói Kisebbségvédelmi Egyezmény végrehajtását figyelemmel kíséző Magyar-Szerb Kisebbségi Vegyes Bizottság IV. üléséről*, I/5). However, in subsequent protocols, Parties highlighted that there was a need for increased attention at the state and local level to preserve and improve the situation of both minorities. This passage was included mainly because the Hungarian minority living in Vojvodina had faced ethnic-

based incidents that caused concern both in Hungarian and Serbian society, being committed to peaceful relations and ethnic tolerance.<sup>51</sup>

One of the other crucial issues that was emphasized by the Commission was the adoption of the 2009 Serbian Act on National Councils of national minorities, which was considered by the Commission to be exemplary for the whole region, since the directly elected Hungarian National Council has significant legitimacy in the areas of education, culture, official language use (orally and in writing), information provision, and plays a crucial role in the full realization of cultural autonomy of the community (*Jegyzőkönyv...*, Budapest, 2011. június 20., I. rész). The protocol of the fourth meeting also highlights the importance and necessity of active participation and activity of the representatives of both national minorities at the meetings of the Commission (*Jegyzőkönyv...*, Budapest, 2011. június 20., II. rész).

The Hungarian-Serbian Commission is the 'youngest' body of the examined six committees; the Parties have held only five commission meetings until now. In this relation, the work of the Commission has also been able to contribute to the improvement of situation of national minorities in both countries, although there are certain other channels through which crucial topics that are connected to national minority issues can be dealt with that will be later explained by the interviewees in Chapter V. The Hungarian system that provides for the protection of the rights of national minorities living in the country, as well as the Serbian approach towards national minority issues and securing the autonomous status of Vojvodina province, enables the broader enjoyment of the rights of national minorities. Furthermore, political relations between the two countries have improved throughout the years, making cooperation more forward-looking, as could be observed in the work of the Commission as well. The organization of commission meetings would be beneficial in the future as well, even in the case that Parties are able to negotiate in the frame of other forums, in order to promote the implementation of more specific and current objectives and the needs of both minority groups.

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<sup>51</sup> For instance see: Megállapítások and Jegyzőkönyv a Magyar Köztársaságban élő szerb kisebbség és a Szerb Köztársaságban élő magyar kisebbség védelméről szóló, 2003. október 21-én megkötött magyar és szerb-montenegrói Kisebbségvédelmi Egyezmény végrehajtását figyelemmel kíséző Magyar-Szerb Kisebbségi Vegyes Bizottság III. üléséről, Andrevlje, 2009. május 21-22., I/2.

#### **4.9. General summary**

The present section of the thesis has reviewed basic empirical background information about six committees established between Hungary and its neighbors. Based on the above, general conclusions can be formulated in connection with the issue. First, it is observable that joint committees have been set up in various political and social environments, in different historical circumstances, as well on the basis of the diverse motivations of countries. In certain cases, states have aimed at the protection of the national minority rights of their kin-minorities living in neighboring countries, or of national minorities residing in their countries. Concerning other relations, the formulation of establishing treaties or of committees was achieved in response to external pressure or in order to reach further political aims. Second, the nature of political relations between countries, as well as the approaches of particular countries to national minority issues, has strongly determined not only the commitments undertaken when establishing treaties, but also the general work of committees. It is highlighted above that between the examined countries separate agreements have been made to establish the joint committee and define its work in more detail, while in other relations basic treaties included the establishment of bilateral committees that deal with the operation of the latter, although typically only briefly. Third, the number of committee meetings is not directly proportional to the existence of friendly relations between Parties, to proper and effective cooperation, or to the realization of more of the objectives initiated by the committee. However, it is typical that countries that maintain friendly relations organize committee meetings more often, while it also occurs that they are able to negotiate about minority issues through other channels. On the other hand, when political relations between parties are extremely unfriendly, conflicts and numerous disagreements occur between them, while meetings of the given joint committee are very likely to be postponed, or the operation of such committees completely ceases.

The present chapter also supplies the appropriate background for the subsequent part of the thesis that presents and examines the interviews undertaken with minority representatives that take part in the six bilateral committees. It is crucial to become familiar with this general knowledge about minority committees that was provided by the section included above, although the actual practical operation of these bodies, as well as their effectiveness, cannot be evaluated only on the basis of the established treaties and the available protocols. For this reason, it is more important to focus on the

experiences of national minority representatives, not only because joint committees were set up – in certain cases, at least on paper – to protect the rights of national minorities, but also because the former are able to provide an overview of the past and present internal work of particular committees, as well as evaluate their effectiveness from defined perspectives. These and several other issues will be dealt with in the next chapter of the thesis.

## **Chapter 5: THE EVALUATIONS OF MINORITY REPRESENTATIVES**

### **5.1. The effectiveness and work of the six joint committees**

In the present section of the thesis, the focus of the research is dealt with – that is, the practical realization of the political participation and representation of minority representatives in the frame of the six joint committees established between Hungary and its neighbors. The work is based on the interviews prepared with minority representatives of the given committees that examined specific issues, grounded in their experiences. The main issue addressed in the chapter, as well as the thesis in general, is the effectiveness of participation and representation of national minorities in the referred-to joint committees under evaluation through the different areas presented below. In other words, in order to understand and examine the effectiveness of minority participation and representation, various issues should be dealt with and focused on through the sub-questions related to the main issue of national minority participation and representation. This objective was realized through the implementation of semi-structured interviews with minority representatives on the topic of a few areas closely connected to the effectiveness of minority participation and representation, these being decisive in terms of evaluating its practical effectiveness. The majority of representatives participate in the work of a committee for many years, and therefore are familiar not only with its operation, processes, and development, but with emerging issues connected to national minority groups in general. Their opinions and experiences generate first-hand, practical knowledge about committees, helping us to understand various processes, their effectiveness, as well as their particular role in bilateral bodies. In the process of research, minority representatives of the six examined committees were contacted and asked for their opinions in the frame of personal interviews. Interview questions were compiled beforehand, but, depending on the answers of the interviewees, as well as on their specific relations, other issues were raised as well. The interviewees also had the opportunity to touch upon other topics not strictly connected to the questions that could contribute to the better understanding of certain aspects. The above-described *semi-structured interviews*, along with the available documents and



scientific literature, served as sufficient methods for the examination of the research topic.<sup>52</sup>

Depending on their relations, as mentioned in the previous section of the thesis, the circle of interviewees covers, on the part of Hungary, the minority spokespersons of the Hungarian Parliament, the presidents of national minority self-governments of Hungary, and in several cases, the presidents of the biggest or most crucial minority non-governmental organizations that operate in Hungary. On the part of other countries, the representative(s) of the Hungarian minority are the presidents or members of minority parties, or Hungarian minority organizations. It should also be noted once again that the interviews were conducted with minority representatives who had participated at the *last committee meeting* of the associated relation. In certain cases, the last committee meeting took place some years ago, while in others it was organized last year, in 2019.<sup>53</sup> In a very limited number of cases, the interview could not be conducted with the competent minority representatives who had participated at the last committee meeting of certain relations, since they had unfortunately passed away.

**In terms of the interviews, issues examined cover the following categories:**

1. *The meaning of political representation from the point of view of the representative and the represented group* (What does participation mean to you/to the minority group you are representing in the frame of the bilateral committee?);
2. *Evaluation of the effectiveness of the particular committee* (Do you feel involved in the work of the bilateral committee on national minorities? Is your participation in your opinion effective?);
3. *The range of issues and procedures minority representatives take part in/do not take part in* (Do you feel involved in the work of the committee, how, and in what situations? If you do not feel involved, how, and in what situations?);

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<sup>52</sup> It should also be noted that the description of certain processes and the general practice regarding the work of committees is based on the individual experience of the author and was obtained when working at the Cabinet of the Ministerial Commissioner responsible for Developing the Neighborhood Policy of Hungary of the Ministry of Foreign Affairs and Trade. The Ministerial Commissioner is also appointed the Hungarian co-chairman of the Hungarian side of all the six committees on national minorities between Hungary and its neighbors that are under examination.

<sup>53</sup> The present research follows the organization of committee meetings until 31 May 2020, although until the given date in 2020, no committee meetings were convened. This is why the last meetings of certain committees occurred in the year 2019.

4. *The influence of minority representatives on the work of the committee, on preliminary talks, and on the committee meeting itself* (Do you have opportunities to implement your aims by involving/influencing other members of the committee? What areas need to be addressed to improve the respect for minority representatives' recommendations in the work of the committee?);
5. *Relations and cooperation with the kin-state and the opportunity to influence decisions with the help of both sides of the committee; and the presence of shared objectives with the kin-state or with the other minority group. The attitudes of kin-states towards their minorities living outside the border.* (Do you have the opportunity to be involved in/to influence both parties of the committee? Do you have relations with the representatives of the other country? Are there any common goals, and if yes, which ones? If there are no relations with them, do you consider that these would be useful and important?);
6. *Recommendations of minority representatives to increasing the effectiveness of the committee* (In your opinion, what is required to make the work of the committee more effective?);
7. *Evaluation of joint committees in general: if these bodies are effective at representing minority claims, or if they are instead the 'followers' of the actual political situation between the two states* (Are the intergovernmental joint committees impactful implementation bodies of national minority aims and representation, or are they rather reflections of political relations between the two countries?).

The opinion and experiences of minority representatives will be presented and analyzed, classified into the above-mentioned seven categories. The research does not specifically focus on the text of protocols, or on the realized or non-realized recommendations of committee meetings, although in some cases several practical example are highlighted that were mentioned by the representatives. The main emphasis of the analysis is on the processes of committees in connection with the *participation and involvement* of minority representatives prior to and during meetings, and with the effectiveness of the work of committees in general. The chapter will also focus on defining the nature of the relationship between national minorities and their home states, and especially their kin-states, including the approach and policies of kin-states that are taken towards their minorities living outside the border. Attitudes related to this issue can be properly

observed during the processes of joint committees, which will also be summarized based on minority representatives' views.

One of the important benefits of the interviews is that minority representatives, based on their experiences, formulated some recommendations about improving the work of committees that represent useful considerations for later, primarily for the examined bodies themselves, but also for other bilateral committees operating in Europe.

Initially, it may be noted that interviewees gave consistent and univocal opinions about most issues, allowing us to draw clear and unambiguous conclusions concerning the above-mentioned problematics. This is also the reason that the examined issues are thematically presented, not one by one, based on relations or countries. Furthermore, not all minority representatives' opinions are individually specified in connection with all issues, since substantively similar views will be presented only once, under the name of a specific minority representative. Naturally, views differing from those of the majority of representatives will also be highlighted. The reason for collating specific opinions is that, although bilateral relations between particular countries vary in many ways, in connection with the work of bilateral committees similar general conclusions can be made, since the institutionalized process of intergovernmental joint committees involves similar problems and concerns. Although the frequency of committee meetings is quite different, being dependent on the given relation, the processes of committees follow the same pattern and general practices may be also identical in all the examined relations.

## **5.2. The meaning of political representation: representatives and represented groups**

In Chapter 2 of the thesis, minority representation and participation is analyzed in more depth, and, as may be observed, in most cases, only generalized statements and aims were formulated both on international and on bilateral level. On an international level, the objective of securing "effective participation" is formulated and dealt with, although due to the lack of a proper definition, to some degree it remains an obscure concept. On the other hand, in bilateral treaties, minority participation is specified more clearly, but the details concerning the exact persons (i.e. the minority representatives) who may take part in intergovernmental committees are included only in a broader sense. In other words, on an international level "effectiveness" is highlighted without securing its definition, and without being able to determine its properly functioning practical form in

connection with national minorities, because their situation varies from country to country. Conversely, on a bilateral level, the form of participation is defined (as it is realized in the frame of joint committees, for instance), without focusing, or only marginally focusing, on its effectiveness.

In committees, the practical opportunity of the political participation and representation of national minorities is secured, at least in most relations, since national minorities are able to represent themselves in the body that has essentially been established in favor of the mentioned group. Furthermore, committee meetings and prior negotiations also serve as forums at which national minorities may gather information about issues concerning them, as well as enable minority groups to personally meet and negotiate with government officials that also deal, in part or largely, with minority issues. Concerning the opportunity for effective participation, the question whether it exists in reality or only on paper or will be clarified in the following material, since it is minority representatives themselves who are best able to answer this question based on their experience. This is also important, because issues should be examined and evaluated from the point of view of the group – in the present case, the minority group – for the sake of which the actual body has been set up. Furthermore, non-minority members of committees in many cases lack direct insight into minority problems and, obviously, do not have first-hand experience of the situation of specific minority groups.

In connection with minority representation, the meaning of the term, as well as the content behind it, will first be examined.

According to the defining views of the interviewees, bilateral committees would be the best establishments for the representation of national minorities' interests in the case that they *operated effectively*. Alexov Lyubomir, the minority spokesperson of the Serbian minority living in Hungary, considers it a very positive step that the former Hungarian co-chairman of the joint committee<sup>54</sup> introduced a new practice of treating those issues that were proposed by minority representatives as priorities. In the 4-5 years when the mentioned practice was followed, almost all recommendations were implemented or put on the agenda. This represented a crucial development for the Serbian minority in Hungary, since in the 1990s Serbia, including the Serb minority living in Hungary, faced a very disadvantageous situation on the international scene. At

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<sup>54</sup> Csaba Latorczai, PhD., between 2010-2014 held the position of the Deputy State Secretary responsible for nationality and civil society relations of the Ministry of Public Administration and Justice (2010-2012), later in the Ministry of Human capacities (2012-2014) and is the former co-chairman of the Serbian-Hungarian joint committee.

that time, Hungarian-Serbian relations were only moderately good, thus improvements in the life of the Serbian minority living in Hungary following 2005, when the meetings of the committee commenced, were of crucial importance, and relations between the two countries have also developed since then.

As Mr. Lyubomir highlighted:

*"We considered it very important to solve the accumulated problems of the Serbian minority living in Hungary, and the joint committee secured a proper framework for it. Thanks to the positive approach of the Hungarian political leaders, irrespective of political party and direction, they asked for our opinion, as well as for the opinion of the Hungarian minority living in Serbia concerning all recommendations of joint committee meetings. This was a very favorable opportunity to promote our interests that was unthinkable before. Following 2010, the recommendations started to be implemented providing us with extremely good opportunities"*(Alexov Lyubomir, 2020)

The importance of political representation was also highlighted in the sense that the agreed-on protocols are directed at the highest level of decision-makers – the government. Even the preliminary meetings and preparations at which the aims and objectives of minority representatives are presented are considered decisive. When recommendations are accepted, they reach the governmental level in a way that would not be possible through other methods thus committees are very important forums for the representation of minority aims (János Gugán, 2020).

The representative of the Hungarian community living in Slovenia briefly summarized the meaning of political participation for the represented group in the bilateral committee as *"following the principle of making decisions about us (on minority groups), but not without us, and I consider this presence very important."*(Ferenc Horváth 2020).

Furthermore, political representation means, in other words, the political legitimacy of the particular national minority group. As the president of the Democratic Union of Hungarians of Croatia (*Horvátországi Magyarok Demokratikus Közössége*) summarized it: *"We, the representatives of the Hungarian minority living in Croatia, participate as members of the committee on the Croatian side, which means we take part in talks*

*based on the decision of the Croatian government. Therefore, our presence implies that the Croatian government regards us as legitimate representatives of the Hungarian national minority in Croatia.*”(Róbert Jankovics, 2020). There is no doubt that presence of minority representatives on given committees implies their recognition or at least the acceptance of their presence by the government in which the country minorities reside. In Hungary, national minorities are not represented by political parties; their representation is secured through national self-governments and, since 2014, by the minority spokesperson of the Hungarian Parliament, as previously mentioned. National minority groups residing in Hungary are not so numerous as the Hungarian minority is in several neighboring countries. Accordingly, as was highlighted by the Slovak minority spokesperson, the smaller number of national minorities enables their representatives to, more or less, know or be able to identify their circle of voters, the members of the given community. Therefore, thanks to the possibility of direct contact with members of the given communities, minority representatives are more aware of their expectations, which can thus be emphasized and represented during joint committee meetings. Thus, the representation of a given minority group also indicates a kind of personal representation, or representation based on personal relations. Mr. Paulik emphasized that...

*“the political representation of national minorities means solely their representation in politics, in general, since we meddle in party politics only rarely. In the joint committees, political representation involves the strengthening of professional representation, and the aim of the meetings is that the objectives deriving from the structure of the minority self-government are strengthened by the minority representatives in the frame of joint committees. It is very rare that the members of the committee do not fully support these aims”*(Antal Paulik, 2020).

The meaning of political representation was also summarized as being that the mentioned forum could secure the opportunity to further improve the protection of interests of national minorities with the help of governments in both countries, or at least help to find solutions for minority problems. The opportunity to start professional negotiations and reach the level of political decision-makers suggests that joint

committees may be effective bodies for solving minority issues (Erzsébet Racskó, 2020).

Some minority representatives emphasized that, during the initial years of the operation of joint committees, they were inexperienced, and the whole structure and practice of bilateral committees was at a preliminary phase that required development. Minority representatives had to understand and put into practice what effective political participation assumed, and to identify the real substance behind the term, thus their participation gradually became more effective thanks to experience gained over the years. According to the former president of the Slovenian National Self-Government of Hungary, minority representatives have, from year to year, become more prepared, resulting in the more effective representation of the national minorities in the committee (Márton Ropos, 2020). In other words, political participation became more effective when minority representatives had more experience and insight into the issues and processes of the body. In this context, the work of committees, as well as the effectiveness of minority participation, shows signs of improvement over time due to the accumulation of experience.

The historical aspect of representation was highlighted by the representative of the Hungarian national minority living in Serbia, who emphasized that the importance of minority participation in the joint committee may be seen as the result of a historical process, and as the realization of a legal certainty. On the one hand, cooperation in the frame of the joint committee has significantly contributed to the development of relations between countries. On the other hand, joint committees, in contrast to the *de facto* cooperation of the two governments, are elements of a *de jure* international legal process that can be used to represent the interests of the Hungarian minority in Serbia, as well as the Serbian national community living in Hungary, in the absence of more effective alternatives (Jenő Hajnal, 2020).

Minority participation in various forms in the six committees covers all the three ‘arms’ of the representation of minorities. The spokesperson for the Croatian minority living in Hungary formulated the essence of political participation in the following way:

*“The president of the National Self-Government of Croats in Hungary, the highest body representing the Croatian minority, the president of the biggest Croatian non-governmental organization, the Association of the Croatian Nationality in Hungary and the parliamentary spokesperson of the Croatian minority participate in the joint committee. In this way, the political, non-governmental, and the legislative sphere are involved on the behalf of the Croatian minority living in Hungary” (József Szolga, 2020).*

The claim that the effectiveness of the joint committee is also because minority spokespersons are members of the Hungarian Parliament, thus this high-level decision-making body is also reachable and is directly involved through the presence of the spokesperson, was strengthened by the Slovenian minority spokesperson as well (Erika Köles, 2020).

It should be added, however, that it is only the aforementioned Hungarian-Croatian and the Hungarian-Slovenian joint committees in which, besides the president of the national minority self-government and the minority spokesperson, a third representative has the opportunity to participate in the work of the committee. In several other cases, a minority expert or a representative of a minority organization was invited to participate at a meeting and during preparations. However, these cases were rather exceptional and ad hoc. In principle, though, if the co-chairmen and members of other committees agree, or consider it important, other non-governmental bodies or experts could be involved in processes on a permanent basis, since the establishing treaties do not define the exact composition of committees, so the issue is also based on the consent of the Parties. The selection of minority representatives, as more broadly described in Chapter IV, is also determined by the states themselves at the initial phase of negotiations. Parties, however, have more or less followed the same practice until now, while the opportunity for modification is always at their disposal. It seems, however, that countries do not consider the involvement of other non-governmental minority organizations on a permanent basis to be relevant, except for in the cases formerly mentioned.

The above-presented aspects of the meaning of political participation in the joint committees presume, albeit implicitly, a more or less cooperative attitude between the two given States. In several relations, however, political participation means, besides the promotion of the interests of a given community, “fighting” against the interest of



the state minorities reside. The former representative of the Cultural Alliance of Hungarians in Sub-Carpathia (*Kárpátaljai Magyar Kulturális Szövetség*), who took part in the Hungarian-Ukrainian joint committee for many years, recalls such attitudes as follows:

*“Following 1991, the interests of the Sub-Carpathian Hungarian community had to be protected against the Ukrainian state, with the support of Hungary. In order to implement this aim, one of the arenas involved the work of the joint committee. Our opportunity to participate in the committee on the Ukrainian side has always been related to the political atmosphere between the two countries, and there were times when the Alliance was not invited to meetings. Legally, we participated in some meetings as members of the Ukrainian delegation, but politically we were its opponents, and we struggled with the Ukrainian state apparatus against the destruction of the Hungarian community”* (Miklós Kovács, 2020).

In the above-mentioned sense, political participation does not mean the effective and representative involvement of minority members in the work of the joint committee, but it presumes that the role of minority representatives is limited to hindering the actual political leadership of the host country if it is making decisions detrimental to the particular minority. In such cases, forward-looking objectives cannot be formulated, and the realization of minority aims is inconceivable. In fact, one cannot talk about political participation unless a similar state of willingness is present between the state and the minority group, as well as between the two particular countries. Furthermore, the operation of a joint committee, or of any other political establishment, is made unsustainable in the long term if such attitudes prevail – which is the reason the abovementioned committee has not operated during the last 10 years or so.

For the representative of the Hungarian minority in Romania, participation in the work of the Hungarian-Romanian committee meant engaging either in a ‘defensive’ or an ‘offensive’ way, but the operation of the committee could never be characterized as ‘friendly cooperation.’ The former highlighted the fact that since the members of joint committees represent a given ministry, they cannot oppose the official position of the government. He clarified that *“it is only the minority representative who is representing the political interest of a given minority community, and who therefore has the*

*opportunity to legitimately oppose the view of even both Parties in the case that their positions run counter to the interests of the minority community. The presence and participation of minority representatives secures the opportunity for them to signal if that happens, or to ask for support from other committee members. If minority participation is lacking, anything can be decided that affects us without our knowledge”* (Árpád Márton, 2020). The representative also added that, in his experience, minority representatives are able to influence decisions effectively, and to represent their interests when they or their minority party belong to the governmental party (or have close relations with the government), thus have the political weight to initiate the acceptance and implementation of certain objectives.

### **5.3. The evaluation of minority representatives of the ‘effectiveness’ of particular committees**

The effectiveness of institutions or bodies depends on several factors that are regarded as crucial in order to make progress in given areas and processes. It is also based on the objective and subjective evaluation of participants about the work, processes, relations, and the conditions of the given body. Regarding the interviews with minority participants about the effectiveness of joint committees, the characteristics and content of effectiveness was not predefined, meaning that the evaluation of the latter was assessed by minority participants themselves. However, in most cases the effectiveness of committees and of minority participation is a self-explanatory concept, often interconnected with the same characteristics and results that were emphasized by minority representatives.

First, the level of effectiveness is strongly dependent on the frequency of committee meetings – self-evidently. According to the documents of foundation, meetings should be organized at least on a yearly basis; however, this provision was not implemented in either relation, and differences occurred only in the length of postponements. It was highlighted by minority representatives that a cohesive system of committee meetings and the implementation of objectives cannot occur when meetings are only organized every 4-5 years. Furthermore, due to frequent changes of committee members, talks have to be started again on the same issues, thus progress cannot be achieved. However, when committee meetings are organized yearly, the cooperation of Parties occurs more smoothly and effectively thanks to the more frequent talks (Alexov Lyubomir, 2020).

The other aspect of effectiveness is the practice and approach followed by states in connection with joint committees and the accepted protocols. Most minority representatives emphasized that the effectiveness of committees is largely due to the positive practice that is followed by Hungary and by several other neighboring states that signed protocols are brought to the government, and are accepted through government decision. Thus, these documents become binding, as well as define the responsible governmental bodies for the realization of particular recommendations of protocols. Thanks to the above process, accepted protocols become appropriate reference points, increasing their effectiveness, as well as the negotiating power of minority representatives (Alexov Lyubomir, 2020). It was also added that without the effectiveness of minority committees, representatives would have significant difficulty expressing and representing their interests and objectives through other channels. In this sense, the work of committees is effective because it secures the opportunity to make contact more directly with a higher level of decision-making bodies (János Gugán, 2020). However, the above-mentioned scenario is feasible only in the case that a given state accepts signed protocols as binding in relation to itself.

The number of objectives that are realized is also a clear and a highly significant indicator of effectiveness. It can be observed that the implementation of committee objectives, as well as the nature of objectives, differs widely regarding the relation. Several aims may be realized in a short time, most within a reasonable timeframe (within a couple of years), and a few only after a decade or decades. Furthermore, the content of proposed objectives also strongly determines their acceptance. The national minority spokesperson of the Serbian minority living in Hungary emphasized that...

*“there have been particular issues in which the committee has acted effectively, and there have been those, such as the situation of the media, where minority representatives, besides introducing very general recommendations, could not implement or put across substantive proposals. There have been certain sore points in which, according to our views, the committee could not act effectively. If we, the minority representatives, went too far, exceeding the opportunities secured for the minority community, we did not have the power to influence other members of the committee to accept these recommendations”* (Alexov Lyubomir, 2020).

As Mr. Lyubomir explained, the media operate as a parallel state, therefore it is very difficult to formulate and include any recommendations in relation to the protocol on broadcasting, on its technical parameters, or on the implementation of formulated objectives in connection with the media, concerning the Serbian minority living in Hungary. The first recommendation urges the Hungarian Party to further improve the conditions for the preparation of nationality programs, referring especially to the digital storage of Serbian materials that can be found in the archives of the Hungarian Television and Radio. The second recommendation was taken over from the previous protocol, since it was not realized, while the Hungarian Party was recommended to find a solution meaning that cable distribution networks could broadcast, in the areas where Serbian minorities reside and in cross-border areas, at least one television program of the kin-state (*Jegyzőkönyv a Magyar Köztársaságban élő szerb kisebbség és Szerb Köztársaságban élő magyar kisebbség védelméről szóló, 2003. október 21-én megkötött magyar és szerb-montenegrói Kisebbségvédelmi Egyezmény végrehajtását figyelemmel kíséző Magyar-Szerb Kormányközi Kisebbségi Vegyes Bizottság V. üléséről*, 2016. április 4., Szabadka, C. rész 7. és 15. ajánlás).

Although the Hungarian-Romanian relation has not operated for a few years, the former president of the Romanian National Self-Government emphasized that formerly, when parties were able to meet and define recommendations, many smaller projects were implemented that were beneficial for the Romanian minority in Hungary – for instance, the renewal of the Romanian Orthodox Church in Zsáka in Hungary, and the purchase of a church parsonage. Certain objectives have also been realized as ‘mirror projects’ by both Parties; for instance, the construction of a Hungarian kindergarten, elementary school, and high school in Deva in Romania that were established in 2005, and the Romanian elementary school and kindergarten in Battonya in Hungary that opened in 2011. However, it should be noted that because of the subsequent and present lack of negotiations, other crucial objectives could not be implemented – for instance, there are 19 Romanian churches that require extensive renovation, and some areas inhabited by the Romanian minority are in need of financial and infrastructural support, and so on (Traján Kreszta, 2020).

On the other hand, the realization of certain projects may be negatively affected when these objectives are not properly formulated – for instance, when the latter are

recommended to both Parties. The former president of the Slovenian National Self-Government pointed out that many problematic issues had been negotiated at committee meetings, and have been present in protocols for more years. These issues could not be resolved because their implementation was not possible in the frame of one project in both countries, since the structure and the situation differed in the two countries. For instance, the retraining or vocational training of public-sector employees belongs to this category. It is still included in the last protocol as a recommendation for both Parties, although it has not been solved for many years because the situation is different in both countries (Márton Ropos, 2020). The mentioned recommendation first appeared in the protocol of the seventh meeting, and was aimed at securing the use of the Hungarian and Slovenian minority language in the public administrations for both Parties (*Jegyzőkönyv a Magyar-Szlovén Kisebbségi Vegyes Bizottság VII. üléséről*, 2003. április 23-24., Moravske Toplice, III/7. ajánlás), then it was specified in a way that the Parties should secure the retraining of public employees in order to practically implement minority language use in public administration (*Jegyzőkönyv a Magyar Köztársaság területén élő szlovén nemzeti kisebbség és a Szlovén Köztársaság területén élő magyar nemzeti közösség külön jogainak biztosításáról szóló egyezmény figyelemmel kísérésére összehívott Magyar-Szlovén Kisebbségi Vegyes Bizottság X. üléséről*, 2008. április 25., Budapest, 6. ajánlás).

It can clearly be observed that, irrespective of the existence of implemented objectives, the effectiveness of past processes can properly be evaluated only over the long term. In connection with non-realized objectives, responsible bodies and ministries provide information to committee meetings about the actual status of particular issues, so such recurring topics, problems, and demands can be continuously monitored. The parliamentary spokesperson for the Slovak minority living in Hungary stated that...

*“many issues reach us only in the case that they are not realized, or in other words, the effectiveness of their realization comes up only at times when the system is not effective. When it works effectively, we do not receive any feedback on it. In that sense, it is difficult to define effectiveness, since the effectiveness of joint committees can always only be evaluated, so to say, afterwards”* (Antal Paulik, 2020).

Effectiveness was also measured by minority representatives in terms of whether their recommendations and objectives were included in protocols. Their general conclusion about the issue was that in the majority of cases, and in most relations, their objectives were incorporated into given protocols in the proposed form or with minor changes. Necessarily, the accepted form always had to be discussed with other members of the committee. In a few cases, the proposals of minorities were not immediately included into the documents, but only after several years of negotiations. According to the president of the Croatian National Self-Government, it did not occur that other committee members had not accepted their proposals; although it occasionally happened that representatives of different ministries on the Hungarian side pointed out their concerns and problems regarding a particular proposal. Despite this, most of the time they were able to find a solution that was acceptable and beneficial for minority representatives, as well as for other members of the committee (János Gugán, 2020).

Closely connected to the above-mentioned issue, effectiveness is also measured by minority representatives in terms of the success of preparatory talks, and in relation to the drafting procedure of protocols before committee meetings. The more detailed the preparation of draft protocols, the more successful the committee meetings can be, since problematic issues can be resolved and agreed on before meetings. According to the former president of the Slovenian National Self-Government in Hungary, committee meetings have become increasingly prepared during the years, and in this sense they have also become more effective. The practice has evolved that, prior to the talks, Parties organize a negotiation for the two co-chairmen, and a separate meeting for the secretaries of the committee as well (Márton Ropos, 2020). However, it was also highlighted by the spokesperson of the Croatian minority living in Hungary that preparation for committee meetings does not happen in the same way and at the same pace with both Parties. He emphasized that the Hungarian Party usually prepares its own version of the protocol properly, and in detail, although it cannot certainly be stated that the other Party follows the same procedure. As a result, at plenary meetings any accidental lack of preparation by any of the Parties leads to longer talks and a more difficult negotiation process, thereby reducing the effectiveness of committees (József Szolga, 2020). In an ideal case (as the process was also described in Chapter IV), the effectiveness of preparation would include the proper and detailed wording and working out of the relevant draft protocol on the part of the organizing Party, along with the

mapping and inclusion of minority objectives, as well as the aims of other committee members, into the draft protocol. A further, crucial step is the circulation of the document among committee members, and between the two Parties as well, in order to help reach agreement on problematic issues prior to talks. This process, however, can fail at different stages – as can be observed in connection with several relations.

In addition to the above, in rare cases it occurred that the work of the committee could not be characterized by minority representatives as effective. Miklós Kovács, who took part in the Hungarian-Ukrainian joint committee representing the Hungarian minority living in Ukraine, highlighted the following:

*“We (the Hungarian minority representatives) did not have the opportunity to influence the view of the Ukrainian Party. At one of the preparatory meetings in which I participated, the Ukrainian Party worked out the arguments serving as a basis for rejecting the demands of the Hungarian Party at the later committee meeting. The Ukrainian Party ignored the objectives of protocols which could have been interpreted favorably for the Hungarian minority, and such beneficial aims were only ‘accidentally’ included into the protocols” (Miklós Kovács, 2020).*

He also added that not a single case could be resolved in the frame of the joint committee concerning the Hungarian minority living in Ukraine. Even when a problem or an objective was included into the protocol upon the recommendation of the Hungarian minority, the Ukrainian Party failed to act upon it.

This latter case is, fortunately, not characteristic of most of the examined relations, and it should also be noted that the mentioned committee cancelled its negotiations in 2011. A similar experience was emphasized by the representative of the Hungarian community in Romania, who highlighted that the work of the committee had been effective only partially and occasionally, or more precisely, that other means and solutions had to be found in order to further the situation of the Hungarian minority in Romania (Árpád Márton, 2020).

#### **5.4. Issues and procedures with the (non-)involvement of minority representatives**

In protecting and promoting the interests of national minorities, it is highly important that minority representatives are involved in as many decision-making processes as possible. This objective is crucial concerning the committees as well, not only because these bodies were established in favor of the mentioned community, thus it is ‘fair’ and useful to involve the representatives of that particular community, but also because minority representatives who belong to the particular minority community have better insight into the problems, objectives, and life of the national minority in general. These experiences of minority representatives with minority issues make their presence in joint committees vital. In the present subchapter, it is analyzed in what processes are they able to participate in the frame of committee meetings, and in the negotiations prior to these, in preparations *on the part of the country they reside in*, and whether there are any procedures and issues in relation to which they do not have the opportunity to take part.

It should be noted that, in most cases, minority representatives are enabled to introduce their objectives in connection with joint committees to the other Party, and to their kin-state as well. This issue will be analyzed in more depth in the fifth subchapter that follows, although at this point it should only be added that the degree of involvement of national minorities on the side of their kin-state varies widely. Some kin-states involve their kin minorities living outside the border in the wording of objectives and preliminary preparations, and in committee meetings, as well as generally protecting their interests to varying degrees. In other cases, minorities are able to participate in the work of the committees only on the part of the state they reside in, and their kin-states take into account their objectives only minimally. In short, minorities are mostly able to take part in the work of committees on both sides, but to different degrees, and in some cases only one Party is interested in taking into account their objectives and views – whether the kin-state or the state of residence. In the following, the views of minority representatives are explained in connection with the opportunities for participation in relation to the state of residence.

According to the interviewees, minority representatives are able to participate in the work of committees in connection with most issues, and they are typically asked for



their opinion, thereby having the opportunity to represent the interests of the given minority group.

It should be noted that even at the time when joint committees were established, they could participate in committee meetings and in the work that occurs prior to these. However, as previously mentioned, they and other members of committees have in general lacked the proper experience in connection with committee work, and the character of recommendations, etc. In spite of this, their views have been, to some degree, taken into account, but over the years their influence has increased, and in most cases they are not circumvented. As also mentioned in Chapter IV, draft protocols are circulated among the members of the committee in writing, thus among minority representatives as well, who are able to formulate their recommendations on such drafts. Subsequently, they are also invited to the preparatory meeting of the given side, where negotiation with other members of the committee occurs, and their views are, in an ideal case, taken into consideration and included into the final version of the draft protocol. The spokesperson of the Serbian national minority living in Hungary also highlighted that...

*“concerning the Hungarian Party, I am able to reach practically everyone in connection with the work of the committee. I do not know about any procedures we are not able to participate in; we closely work together with the representatives of ministries and harmonize our interests at the meeting of the Hungarian side prior to the plenary meeting”* (Alexov Lyubomir, 2020).

He also added that he is able to follow discussions with the Hungarian co-chairman of the committee whenever this is necessary.

The spokesperson of the Slovak national minority living in Hungary also emphasized that minority representatives are able to take part in all the processes of the committee. Most recommendations are connected to minority education and culture, and minority representatives are fully aware of the situation of the given minority concerning these issues. He summarized his experiences as follows:

*“Besides drawing up the objectives of the protocol and taking part in committee meetings, we are invited to other consultations of governmental bodies that deal with the realization of recommendations, and they are used to asking for our*

*opinion about those topics as well. We also have good relations with key players in public administration that deal with areas important for national minorities, thus we are informed about the realization of joint committee objectives, so there are no issues that we cannot comment on, should we want to” (Antal Paulik, 2020).*

The above statement and experience highlights the wider opportunity of participation and influence since it goes beyond the processes of the committee itself, and supposes better and broader cooperation between minority representatives, the other members of the committee, and the bodies responsible for minority issues.

As pointed out, the majority of representatives formulated similar positive experiences in connection with their participation in the work of committees on the part of the country they reside in, including both the preparations and the plenary meeting. Concerning the follow-up processes, though, it should be noted that neither the representatives nor other members of the committee are able to take part in these, which is characteristic of other proceedings as well. As the parliamentary spokesperson of the Slovenian minority living in Hungary confirmed, there are only a few, or even no procedures she cannot participate in. Obviously, these are the processes and events that take place after committee meetings – for instance, the adoption of the government decision, or urging the realization of certain committee objectives –, but during the preparation and the talks she is able to participate in all processes (Erika Köles, 2020).

In other words, as the representative of the Hungarian minority in Croatia summarized it, minority representatives, as well as other members of the committee, do not take part in procedures outside of their sphere of responsibility such as in the meetings of the two co-chairmen, or those of the secretaries, nor in follow-up processes. However, this division of competences does not hinder the success of the work of committees since minorities have, in most cases, the opportunity to participate in the decisions affecting them (Róbert Jankovics, 2020).

Besides these positive experiences, it was also highlighted by several interviewees that although they are able to take part in most processes and it can generally be stated that their proposals are taken into account, this does not always happen smoothly or without hindrance. In certain cases, it also occurred that they were not able to participate in

committee work on the side of the country they reside in. For instance, according to the representative of the Hungarian minority in Ukraine, on the Ukrainian side of the joint committee, representatives of the Hungarian minority do not have the opportunity to influence the decisions of the Ukrainian Party. Although it is true that in several cases they have been invited to the talks of the Ukrainian Party prior to committee meetings, they have not been asked about their objectives and views. Moreover, in relation to the Ukrainian Party, preparations in some cases meant collecting the objections for the subsequent committee meeting that would support a rejection of the objectives of the other Party, or of the Hungarian national minority (Miklós Kovács, 2020). The former president of the Ukrainian National Self-Government of Hungary also emphasized that there have been crucial differences between Parties in connection with enabling participation for minorities. On the Hungarian side there have been talks during which the representatives of the Ukrainian minority could represent their interests, and when other members of the committee accepted their recommendations, in general. However, the Ukrainian Party, prior to committee meetings, only rarely organizes preparatory meetings; moreover, representatives of the Ukrainian minority living in Hungary have not been invited to these talks. In rare circumstances, they were asked at the actual plenary meeting about their aims and viewpoints (Jaroslava Hartyányi, 2020). It is observable that in the mentioned relation Ukraine does not respect the participation of national minority representatives in the committee, and in its policy-making the protection of the rights of the Ukrainian national minority living in Hungary have not appeared as a priority. Fortunately, both minorities were able to represent their interests towards the Hungarian Party, which is considered of significant help to them.

In the case of the Hungarian-Romanian joint committee, the situation is quite similar to the above, as summarized by the representative of the Hungarian minority in Romania. He highlighted that they have never received the draft protocol from the Romanian Party, for instance, nor those that were sent to the Hungarian Party before plenary meetings.

*"This has not occurred, even at those times we have been in government (note: the Democratic Alliance of Hungarians in Romania). In many cases, we have received the information on the date of the next committee meeting only at the last minute, but it has also occurred that the Romanian Party did not inform us*

*at all, or did not allow us in to the meeting. After all, at plenary meetings, if we request it, we can explain our views and objectives. Our input and presence has often been useful, since we have been able to prevent several debates between Parties, as well as the inclusion of disadvantageous passages into the protocol concerning the Hungarian national minority in Romania. In conclusion, however, we did not have the opportunity to take part effectively either in the preparations on the side of Romania, or in the decision-making processes about national minority issues” (Árpád Márton, 2020).*

These latter examples demonstrate that in the mentioned relations the main aim of joint committees has not been realized; that is, involving minority representatives in drawing up protocols concentrating on their objectives and on the protection of their rights. The processes of committees may have been implemented even without the participation and influence of minority representatives, since governments, mostly arbitrarily, defined the objectives for the mentioned group ignoring the real needs of national minorities. Although most representatives formulated positive opinions about committee processes in connection with their involvement, in several exceptional cases, as in the two mentioned relations, significant developments would have been necessary to better involve national minorities in practice. However, this would only occur if the two committees were operational, but for some of the reasons summarized above, they have become dysfunctional.

### **5.5. The influence of minority representatives on the work of committees**

In the previous chapters, it was explained that it is not enough that minority representatives, or any other actors, are invited to negotiations and they are present at talks. Their presence has to be translated into influence, or in other words, they have to be given the opportunity to influence decisions, and their views and objectives should be taken into consideration. The present subchapter focuses on minority representatives' experiences connected to their power of influencing decisions in joint committees, including preparatory talks, and the wording of draft protocols as well. From the point of view of minority representatives, it is considered a crucial success when their objectives are accepted by other committee members, that these aims are included into protocols, and are implemented in the years following the given committee meeting. The main general observations based on the interviews are that representatives have

been and are generally able to influence most issues in the relevant committees and their aims were included into the protocols immediately, or after several years. On the other hand, there were several crucial problems that, in certain relations, could not be solved even until now, and minority representatives have not been able to influence these several issues. The majority of these topics could not be properly included into the protocols, or have not been realized until now.

The representative of the Serbian minority living in Hungary highlighted that, for instance, in connection with the situation of the media, they could not effectively influence decisions, and only generalized recommendations were formulated by the commission. He added that important aims had been defined in relation to education and culture, but in connection with the media they could not significantly influence decisions “*exceeding the opportunities of a national community*” (Alexov Lyubomir, 2020). In practice, this means that the responsible body for media issues in Hungary, the National Media and Infocommunications Authority, is an autonomous regulatory body that national minority groups (and other bodies) are not able to influence.

Similarly to the above, the representative of the Slovak community living in Hungary also emphasized that the influence of minority representatives is limited in the sense that the acceptance of their recommendations is not total. This is because other committee members on the Hungarian side, the representatives of ministries, reject or revise their objectives if these are not acceptable for financial or other reasons. However, he also added that since minority representatives usually do not have unrealistic objectives, and their aims are justifiable in relation to improving the situation of the given national minority, their recommendations are mostly accepted (Antal Paulik, 2020).

The influence of national minorities that can in most cases be exercised on the Hungarian side cannot be realized towards the kin-state in several relations. The representative of the Croatian minority living in Hungary agreed with other interviewees that they have often been able to reach agreement with the Hungarian side; moreover, within the last two years it had never occurred that their proposals had not been included into the protocols. On the other hand, their kin-state assessed some of their recommendations as turning to the state for financial support that could not be given by Croatia. Although this was not the primary aim of the Croatian minority living in Hungary, minority representatives report that they have been rather unsuccessful at

influencing the implementation of several objectives on the Croatian side (József Szolga, 2020). However, the representative of the same relation, the president of the Association of the Croats in Hungary, stressed the following:

*“It is of utmost importance that we are able to reconcile our interests with both sides of the committee. In this way disputed topics receive more attention, and we also have the opportunity to negotiate with responsible governmental bodies in connection with particular thematic issues”* (József Osztrogonácz, 2020).

In his view, the influence of minority representatives may be best realized through negotiating with both Parties. In other relations, similar answers have been formulated. At this point, it should be noted that the majority of kin-states ask their national minority living abroad about their objectives; however, in general this depends on the policies of kin-states that are followed towards their kin-minorities. This issue will be more broadly dealt with in the next section of the present chapter. In brief, kin-states receive information about the objectives of their national minorities living outside the border in different ways. First, it often happens in writing, as the draft protocol of the kin-state is forwarded to the representatives of the kin-minority who are able to define new aims for the upcoming committee meeting. The second option is realized through personal negotiations; for instance, when representatives of the kin-minority are invited to the preparatory meeting of the kin-state. The third possibility includes informal talks and meetings that take place at any events when the two responsible bodies (kin-state representatives dealing with joint committee issues and the kin-minority representatives from the other country) meet, or via informal briefings and negotiations not strictly connected to the work of joint committees. The fourth option, and probably the weakest one, is when the kin-state asks for the opinion of the kin-minority only at the committee meeting itself, the latter not being able to negotiate beforehand.

As could be seen in previous subchapters, most problems connected with influencing the work of joint committees arose in relation to the Hungarian-Ukrainian and the Hungarian-Romanian relationship. The minority member of the committee representing the Hungarian national minority in Ukraine emphasized that they did not have the opportunity to influence the decisions of the Ukrainian Party. There have also been periods when the representatives of the Hungarian minority have not been invited to

committee meetings; this has always been dependent on the actual political conduct of the Ukrainian government. When the former have participated in the preparatory talks or at the meetings, they have been considered opponents of the Ukrainian Party. Correspondingly, *“there have been no such issues that could be solved thanks to the negotiations of the committee and that affected the life of the Hungarians in Ukraine”* (Miklós Kovács, 2020).

In the case of the Hungarian national minority living in Romania, their representative stressed that they had had the opportunity to influence decisions of the committee to a certain extent, but only when their party was in government and had adequate political power to implement these objectives on a governmental level. In other periods, the situation was very similar to that with the Ukrainian committee in the sense that minority representatives were often not invited to the plenary meetings. On several occasions, they were informed about the date of the meeting only by the Hungarian Party. As mentioned in the previous subchapter as well, in a few cases they were able to represent their aims at the committee meeting, as well as being able to avoid animosity developing between the two Parties. However, they never have been able to achieve their most important objectives, and their influence on the side of Romania has never been realized in practice (Árpád Márton, 2020).

To sum up, minority representatives are able to influence the decisions of particular committees to different degrees, mainly because their success is highly dependent on the proposed issues and objectives themselves. In the presence of more or less well-functioning relations between the residing state and the minority, minority representatives are asked about their opinions and objectives, while their recommendations are often included into the protocols without delay, and other aims only at a later date or with a few modifications. Many of the issues they raise are not incorporated into the protocols, mainly due to financial or political reasons, although it also occurs that most of these problematic elements are dealt with through other platforms, or unfortunately remain unsolved. Occasionally, and particularly in two relations, minority representatives have not been able to effectively influence decisions either at the preparatory phase or in committee meetings because of the approach of the home state. In these instances, the prevailing problems of national minorities could not be solved, and only a few issues could be dealt with, mainly through the help of their

kin-state. In response to this, the referred-to committees, after a time, were unable to operate because of the accumulation of problems and lack of understanding.

#### **5.6. The cooperation of national minorities with their kin-state. The attitudes of kin-states towards their national minorities outside the border**

Relations between national minorities living in neighboring states and their kin-states should be examined for the reason that these relations strongly influence the processes and success of joint committees as well. The objectives of kin minorities, formulated in the frame of committees, are taken into account by the kin-state to various degrees, depending on several factors, but most importantly, on the political priorities of kin-states. In the present subchapter, the processes and cooperation between kin-states and their national minorities living in the neighboring country that can be observed during the work of joint committees will be analyzed. Interviewees, in many cases, formulated their views about the actual policies of their kin-state in connection with the national minorities living beyond the border in a more general sense as well, not focusing only on the work of committees. In this section, particular attention will be paid to the opportunities for or obstacles to national minority representatives participating in decision-making processes and the preparations of the kin-state before and during the work of the committee. Minority representatives also explained their views with regard to whether their relations with the kin-state should be developed, and whether current practices and processes are appropriate. For the purpose of transparency, I present and analyze the views of minority representatives in this subchapter separately, according to specific bilateral relations.

##### ***5.6.1. Hungarian-Ukrainian joint committee***

The Hungarian-Ukrainian joint committee, as previously mentioned, held its last meeting in 2011, and since that time talks have been interrupted for several reasons. At past meetings, the former president of the Ukrainian National Self-Government, Jaroslava Hartyányi, participated as the representative of the Ukrainian national minority living in Hungary. On the part of the Hungarian minority living in Ukraine, the representative of the Cultural Alliance of Hungarians in Sub-Carpathia, Miklós Kovács, participated in the meetings. Since the representative system of parliamentary spokespersons of national minorities living in Hungary was established in 2014, at the time of operation of the Hungarian-Ukrainian joint committee the function did not exist.



Based on the experiences of the two representatives, several conclusions can be formulated in connection with the attitudes of kin-states towards kin-minorities, which could also be observed during the operation of the committee.

Jaroslava Hartyányi, in connection with her role and influence in the committee, emphasized that, although the recommendations of the Ukrainian minority living in Hungary had not been accepted throughout the years, this was due to the attitude of the Hungarian Party. The Hungarian side of the committee had always included their former's objectives into the given protocol, even if this happened in several cases after longer negotiations with other members of the Hungarian side. She recalled the initial period of the operation of the committee, when the attitude of both Parties, but mainly of Ukraine, was more mutually cooperative and supportive in relation to the aims of national minorities. However, relations started to worsen between the two sides, and, as the former president highlighted, Ukraine did not protect the interests of the Ukrainian national minority living in Hungary in a way they considered sufficient or desirable. She emphasized that...

*“what disturbed and embarrassed us, the representatives of the Ukrainian national minority in Hungary, was that Ukraine did not protect us in the way that Hungary protected the rights of the Hungarian minority living in Ukraine. We have been able to manage our lives and prosper even without this, since the Hungarian legislation secured comprehensive rights for national minorities residing in the country, but despite that, this has affected us negatively”* (Jaroslava Hartyányi, 2020).

On the relations between Ukraine and the Ukrainian national minorities living outside the border, she also mentioned that *“Ukraine has been less concerned with the issues of Ukrainian national minorities in other countries, although, publicly they did not confront us”* (Jaroslava Hartyányi, 2020). This attitude could be observed during the preparatory talks and at committee meetings as well. On the one hand, Hartyányi explained that the Ukrainian Party organized preparatory meetings only very rarely, and their approach to the work of the joint committee was quite superficial. On the other hand, even when preparatory talks took place, representatives of the Ukrainian national minority living in Hungary were only invited to attend once or twice, since Ukraine did

not prioritize the objectives of its national minority beyond the border. It was also added that the nature of preparatory talks and the committee meeting itself always depended on the ambassador of Ukraine (in Hungary), and preliminary negotiations only occurred at those times when they wanted to communicate their plans towards other committee members. Hartyányi also recalled committee meetings at which the Ukrainian Party asked the Ukrainian minority living in Hungary only at the meeting itself about their future objectives and recommendations, although these ‘enquiries’ occurred in a quite belated way. She concluded that the Ukrainian side stood up for the Ukrainian minority at committee meetings, but with regard to other aspects she could not decide whether these gestures were made for the community itself, or only to defend their own truth (Jaroslava Hartyányi, 2020).

On relations between the two countries, the former president stated that in the past she could not even imagine that the Hungarian-Ukrainian relations would deteriorate to the present extent, since at the beginning of the 1990s committee meetings were characterized by a friendly atmosphere. She added that, due to the size of the Hungarian national minority living in Ukraine, the committee primarily dealt with them, and Hungary had always protected the rights of Hungarian national minorities living abroad in a way that had been exemplary. As the former president explained, relations between the two states later started to worsen, and in Ukraine the atmosphere has become more and more anti-Hungarian. One of the reasons has been that people in high positions started to spread the claim that the Hungarian national minority residing in Ukraine is separatist, and their aim is to set up a region called Zakarpattya as an enclave within Ukraine. Although this was not the case at all, it greatly affected and worsened relations with Hungary, as well as with the Hungarian national minority living in Ukraine. Hartyányi also expressed her hope that the two Parties would settle their relations in the near future, since presently it would be quite easy to turn to an approach of reconciliation and cooperation, but for this both Parties are needed. In the contrasting case, a level of animosity could be reached at which the Parties would find it hard to deescalate (Jaroslava Hartyányi, 2020).

On the same issue, Miklós Kovács, the representative of the Hungarian national minority living in Ukraine, highlighted that at the preparatory talks of the Ukrainian side, representatives of the Hungarian national minority did not have the chance to influence the position and views of Ukraine. Correspondingly, they could never explain

and introduce their objectives in favor of the Hungarian minority. He recalled an occasion when he took part in a preparatory meeting of the Ukrainian side at which the atmosphere could be characterized as the following:

*“Although – legally – I participated in committee meetings as a member of the Ukrainian delegation, so they could not leave me out, politically I was their opponent, and they considered me part of the competent Hungarian team, or as a person due to whom the Hungarians were hostile” (Miklós Kovács, 2020).*

In connection with their relations with the kin-state, he mentioned that the representatives of the Hungarian minority in Ukraine have prepared for committee meetings with the help of the information and draft protocol provided by Hungary, and they also supported the Hungarian Party by formulating and forwarding their objectives to them, as well as informing them about their struggles with the Ukrainian State apparatus. Kovács also mentioned that in the Hungarian-Hungarian frame, negotiations were organized in which they could participate, involving dealing not only with the issues of the joint committee, but mainly with the relevant and current political lines of conduct that Hungary pursued towards Hungarian nationals living outside the border. In spite of this, however, it did not occur that the Hungarian state and the Hungarian community living in Ukraine could act commonly – as a united force against the hostile moves of the Ukrainian government – so in the framework of the committee, no issues could be solved.

#### ***5.6.2. Hungarian-Slovenian joint committee***

The Hungarian-Slovenian relation, in connection with the work of joint committees, can be characterized as one of the best operating of the six committees under examination, as stressed above. Parties organized plenary meetings almost yearly, and harsh disagreements have never occurred between the states. In connection with the issue under discussion, the former president of the Slovenian National Self-Government in Hungary, the parliamentary spokesperson of the Slovenian minority living in Hungary, and the representative of the Hungarian national minority in Slovenia, explained their views as representatives who took part in the last committee meeting.

The former president of the Slovenian National Self-Government, Márton Ropos, about relations with the Slovenian Party summarized that for the representatives of the Slovenian minority in Hungary, the opportunity of negotiation with the Slovenian Party is fully secured prior to committee meetings, and the representatives of the Slovenian minority living in Hungary are also invited to the preparatory talks. Mr. Ropos explained that in the preliminary negotiations on the Slovenian side, representatives of the Government Office for Slovenians Abroad take part, and representatives of other ministries occasionally participate as well. Besides this meeting, the Slovenian Party negotiates with Slovenian minority representatives living in Hungary separately or additionally. This also means that, for the Slovenian representatives, the opportunity is secured to negotiate with both Parties before committee meetings, and that they are also able to formulate their aims and draw up new recommendations. The former president highlighted that they are also asked to evaluate the accomplishment of past objectives, are fully involved in preparatory processes, and committee meetings as well. The president also highlighted that through the Slovenian ambassador to Hungary, and the Consulate General of Slovenia in Szentgotthárd, not only can the issues of the joint committee be communicated towards Slovenia, but through these channels they are able to keep in day-to-day contact with the kin-state. However, one slightly problematic issue, according to the representative, is that Slovenia considers the Hungarian local minority government system and the scheme of minority spokespersons to be a peculiar model, probably because these bodies and positions are operated by the Hungarian government.

On their relations with the kin-state, Mr. Ropos also mentioned a practical example: that the biggest non-governmental organization for the Slovenian national minority living in Hungary, the Association of Slovenians in Hungary, is the primary body supported by the kin-state. The National Self-Government is still slightly considered a ‘black sheep’ on the part of Slovenia, in spite of the fact that both bodies deal with the issues and protect the interests of the Slovenian national minority living in Hungary (Márton Ropos, 2020). The Slovenian National Self-Government basically coordinates and unifies the work and operation of minority self-governments in the country and deals with cultural and educational issues related to the Slovenian minority.<sup>55</sup> The Association also engages in additional and more widespread activities, such as dealing with

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<sup>55</sup> For more information see the official website of the Slovenian National Self-Government. Available at: <http://www.slovinci.hu/>. (Last accessed: 21 October 2020.).

Slovenian language education, language use, culture, religion, and publishing; it also provides various forms of information through its Cultural and Information Center.<sup>56</sup>

According to Mr. Ropos, the Slovenian national minority in Hungary has until now achieved that Slovenia supports several of their objectives, but not the National Self-Government directly. Owing to the joint committee meetings, many minority projects are supported by both Parties, which can be considered a big step forward, since all these issues have been formulated in the mentioned framework (Márton Ropos, 2020).

On the relations between the two countries, Mr. Ropos highlighted that good neighborly relations between the two Parties have persisted since the establishment of the committee, and hopefully this will continue in the future. Obviously, such positive relations also influence the operation of the joint committee, which is the main reason why it can function properly and beneficially for both minority groups. He added that in several cases disagreements had occurred; however, this is natural, but relations are basically decent and friendly, and national minorities are loyal to both states, taking the work of the committee forward as well (Márton Ropos, 2020). Giving an example of a smaller disagreement between the Parties, the representative mentioned an issue that came up at the last committee meeting in 2017. The protocol of the meeting contains an objective according to which the Committee noted the spread of hate speech with concern, recommending that all responsible bodies take effective actions against all forms of hate speech in order to protect national minority groups (*Jegyzőkönyv a Magyar Köztársaság területén élő szlovén nemzeti kisebbség és a Szlovén Köztársaság területén élő magyar nemzeti közösség különjogainak biztosításáról szóló egyezmény figyelemmel kísérésére összehívott Magyar-Szlovén Kormányközi Kisebbségi Vegyes Bizottság XVII. üléséről*, 2017. november 21., Brdo pri Kranju. III/6). During prior negotiations, representatives of the Slovenian national minority living in Hungary recommended that this aim be formulated only in connection with the Hungarian national minority living in Slovenia, since the Slovenian minority in Hungary had not experienced the presence of hate speech in any form or on any forum. In spite of this, the objective was defined for both Parties, according to the Protocol.

The parliamentary spokesperson of the Slovenian national minority in Hungary spoke similarly about negotiations with Slovenia and Hungary. She also pointed out that she

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<sup>56</sup> For more information, see the official website of the Association of Slovenians in Hungary. Available at: <https://www.zveza.hu/hu/> (Last accessed: 26 November 2020).

had had the opportunity to participate on the side of the Slovenian Party as well, being able to explain the objectives of her community both personally and in writing. Although she had also experienced that only the representatives of a few ministries are present at preparatory meetings of the committee, certain responsible bodies often do not represent themselves, somewhat hindering progress. The spokesperson also added that although she is able to participate in preparatory talks on the Slovenian side, there is no opportunity to meet with the decision-makers of the Slovenian government at a higher level, although she considers that this would be very useful in order to harmonize national minority objectives. Another process that should be changed is that the negotiation of the Slovenian Party usually happens only one or two days before the committee meeting itself. Due to the short time until the actual plenary meeting, new recommendations are typically not formulated during talks prior to the draft protocol that are additional to those that have already been framed and circulated between the members of the Slovenian side (Erika Köles, 2020). As also mentioned in Chapter IV, draft protocols are, prior to committee meetings, sent to the relevant members of committees, including minority representatives of the country, and in many cases also to the negotiations that occur before committee meetings, when members of a committee discuss the draft protocol once again. At these talks, new recommendations can be included into the already formulated text, and the predefined objectives of the draft can be revised as well. It often occurs that the individual (or group) who proposes a (new or preexisting draft) objective is asked to formulate the recommendation in another form or with modified content by a given date, even prior to the committee meeting. These modifications, made after the preparatory meeting of a Party, are sent to other committee members in writing before the plenary meeting. However, when preliminary talks occur only shortly before the committee meeting itself, as the spokesperson referred to noted, this makes impossible or very difficult to formulate new recommendations on the draft protocol, or to make ad hoc modifications, and it can easily happen that the given Party holds back from initiating such new objectives. The situation may be even more disadvantageous for kin-minorities if they do not receive the first version of the draft protocol, and are thus unable to include their proposals in the text. If they are invited only to preparatory talks – where they also face difficulties including new proposals in the text due to the aforementioned lack of time until the committee meeting – they can only bring up their objectives at the committee meeting itself, without previous negotiation with the kin-state. The spokesperson claimed it

would also be useful to negotiate, prior to committee meetings, with the representatives of the Hungarian national minority living in Slovenia, but this has occurred only rarely. Thus, relations with minority representatives of the Hungarian minority living in Slovenia are shallow, and their objectives largely differ. Concerning the negotiations with the Hungarian Party, she noted that she has the opportunity to participate in all processes, including the prior negotiations, as well as committee meetings, and the objectives of the Slovenian minority are taken into consideration. Political relations between Hungary and Slovenia were characterized by the spokesperson as ‘good and friendly.’ She noted that, owing to this positive relationship, Parties are able to organize committee meetings in the light of this. Since the committee has operated, significant progress has been observed in many areas that are crucial for both national minorities, and this attributable to the joint committee and the prosperous cooperation between the two states (Erika Köles, 2020).

The representative of the Hungarian national minority living in Slovenia, emphasized in relation to relations with Hungary, that they continuously negotiate with Hungary concerning the issues of the joint committee, and similarly with Slovenia as well. Therefore, he also described relations with both Parties as friendly and well functioning, which was also true of the past. According to the representative, the Hungarian national minority living in Slovenia has frequent contact with the Slovenian minority living in Hungary (Rábavidék); the two communities have numerous objectives that are to be jointly realized. Thus is because a number of problems are similar in both minority groups, and both communities are quite small in number, thus they try to obtain governmental support on both sides. According to their representative, this practice should continue in the future as well (Ferenc Horváth, 2020).

Based on the above two interviews, it appears that that the experience and views of the two minority representatives – the parliamentary spokesperson of the Slovenian national minority in Hungary, and the representative of the Hungarian national minority in Slovenia – differ concerning the relations between the two communities. Although both interviewees consider it important to communicate regularly with each other, as well as to maintain a good relationship, they presented differing experiences in connection with these issues. While the spokesperson for the Slovenian minority sees minority-minority relations as superficial – highlighting that the two communities do not have common or similar objectives – the representative of the Hungarian minority believes that the

contacts between them are quite frequent and the two communities face similar problems, thus some objectives could be jointly implemented.

In connection with the Hungarian-Slovenian relation, it may be noted that the Hungarian national minority living in Slovenia has positive relations with Hungary, and the situation is similar with the Slovenian national minority living in Hungary in terms of their relations with Slovenia. However, a significant benefit for both communities is that their relations are not only forward-looking and positive with their kin-state, but with their home state as well, facilitating cooperation on a higher level.

### ***5.6.3. The Hungarian-Croatian joint committee***

The present relation belongs to one of the committees that differs from most others in the sense that three minority representatives participate in its work, as mentioned in the previous chapter: the president of the Croatian National Self-Government of Hungary, the Croatian parliamentary spokesperson, and the president of the Association of the Croatian Nationality in Hungary. On the Croatian side, the Hungarian community living in Croatia is represented by the president of the Democratic Union of Hungarians of Croatia. These minority representatives evaluated the present issue relatively consistently, drawing similar conclusions, as presented below.

The president of the Croatian National Self-Government, in connection with their relations with the kin-state and concerning the work of the committee, explained that representatives of the Croatian minority living in Hungary had recently been invited to the talks of the Croatian side, although prior to the past two meetings, unfortunately, this had not been characteristic. He also emphasized that in the past their non-attendance had negatively affected plenary meetings, since those issues which were raised at the meeting could have been negotiated beforehand. However, he also added that there were opportunities to communicate with the Croatian Party about issues concerning the committee, especially with the Central State Office for Croats Abroad, but this did not occur personally but only in writing, which to some degree could also be considered preparation. However, this practice did not lead to the same result as if they had negotiated about problematic issues and solutions in person by explaining their objectives, since that would have been much more effective (János Gugán, 2020). It should be noted that kin-states follow different policies towards their national minorities abroad, as already mentioned. Furthermore, the work and the importance of the joint



committee are also evaluated differently, influencing the cooperation between kin-states and kin minorities in the frame of the given committee. As has been stressed, in the case of Croatia and the Croatian kin minorities living in Hungary, relations can be characterized as friendly and mostly cooperative, but preliminary negotiations with kin minorities before certain committee meetings do not belong to the prioritized events of the kin-state, based on the above report.

The president was of the opinion that regular personal meetings would be useful in order to facilitate negotiate on other topics as well, irrespective of the joint committees, since it is probable that such issues may be raised at future committee meetings. The other negative feature of the lack of communication between the Croatian bodies and the Croatian national minority in Hungary is that there are some problematic issues that are awaiting a solution that depend on the Croatian Party (János Gugán, 2020). According to the protocol of the last committee meeting of 2019, the committee repeatedly recommended to the Croatian Party, among others, that they examine the opportunity to support financially the construction of a gym in Korod; review the possibility of the construction of kindergartens in Novi Bezdán and Korod; and to examine the opportunity of making regular purchase of Croatian publications, as well as to send these to different Croatian libraries that are available to Croats in the kin-state (*Jegyzőkönyv a Magyar–Horvát Kormányközi Kisebbségi Vegyes Bizottság 2019. december 12-én, Zágrábban megtartott XV. üléséről*. 16., 17., 36. pont). Although these objectives, together with certain other topics, have appeared in the protocols for a longer time, changes have not occurred, and, due to the lack of talks, representatives of the Croatian minority in Hungary are typically not informed about the reasons for their non-realization or about the actual progress with specified issues (János Gugán, 2020).

On relations with Croatia, Mr. Gugán also added that the Central State Office for Croats Abroad is invited to many events of the Croatian minority living in Hungary, since the Office secures the highest level of representation of Croats abroad. In other words, in general, relations with Croatia function quite well, although – in connection with the joint minority committee – preliminary consultations are lacking, especially in the form of personal and organized talks. In connection with kin-state approach towards its national minorities abroad, the president only emphasized that there are some countries where the future of the Croatian minority only depends on the realized (or non-realized) objectives of joint committee protocols. For the Croatian minority living in Hungary, the objectives of protocols are also of crucial importance, but the situation of the latter is

appropriate because of Hungarian regulation: they are represented by a parliamentary spokesperson, by the National Self-Government, and by the Croatian self-governments in the country. They are always asked about their objectives and opinions by the Hungarian side prior to each committee meeting in the frame of personal talks, or during a meeting with the Hungarian co-chairman, and are thus able to influence decisions (János Gugán, 2020).

The spokesperson for the Croatian minority living in Hungary, Mr. József Szolga, strengthened the claim that representatives of the Croatian minority living in Hungary had until 2017 been invited to talks with their kin-state before committee meetings, although recently this process has changed, in spite of the fact that the kin-state had promised to continue the practice in the future. In recent years, this has not been occurred, and only informal talks and meetings have taken place. According to the spokesperson, one possible explanation for this is that the Croatian co-chairman considered informal meetings to be the proper basis for drawing up draft protocols. In previous years, the representatives of the Croatian minority living in Hungary have received the Croatian version of the draft protocol and have been able to give their opinion about it, as well as recommend new objectives. Recently, minority representatives have been able to present their aims to the kin-state during the above-mentioned informal meetings (József Szolga, 2020).

Concerning relations with the kin-state, the spokesperson touched upon the support system of Croatia. He highlighted, on the one hand, that the Croatian national minority in Hungary did not turn to the kin-state for financial support, primarily because this is legally secured by Hungary, and in recent years significant developments have occurred in this area. On the other hand, the Central State Office for Croats Abroad launches different tenders and calls for institutions, self-governments, and non-governmental bodies associated with the Croatian national minority abroad. This system and practice functions properly, but the extent of support also shows room for improvement. The representative added that...

*“knowing the historical roots of the independence of Croatia – that it happened through war, and that the country could not recover from it for decades –, it is understandable that the kin-state has more crucial priorities than maintain the*

*support or relations with kin minorities living in other countries”* (József Szolga 2020).

On relations with Croatia, Mr. Szolga also highlighted, similarly to Mr. Gugán, that the representatives of the Croatian minority in Hungary are in day-to-day contact with the Central Office for Croats Abroad, thus if problems occur they are able to communicate this to the other party. However, in connection with the preparation of joint committee meetings, as mentioned, he regrets the absence of integrated talks prior to plenary meetings and is of the opinion that competent ministries and bodies should invite the representatives of the Croatian national minority to the preliminary negotiations so they feel involved in this side of the committee as well. As a practical example, Mr. Szolga pointed out that, owing to the fact that there are several common priorities between Croatia and the Croatian national minority in Hungary, it would be also highly beneficial, for instance, that the development of the educational situation of the Croatian national minority be supported by the Croatian side, who could promise assistance in relation to this area in the future, additional to the help secured through the Hungarian Party (József Szolga, 2020).

The third representative participating in the work of the Hungarian-Croatian joint committee and the president of the Association of the Croatian Nationality in Hungary, Mr. József Osztrogonácz, echoed the thoughts of the other two Croatian representatives, claiming that...

*“the opportunities for participation on the side of the kin-state, compared to previous years, have narrowed, and I, the representative of the non-governmental sphere, have not been asked to provide an opinion about the future support of the Croatian national minority living outside the border”* (József Osztrogonácz, 2020).

It should be noted that not only have his opportunities narrowed, but, as highlighted above, this was the general case for other representatives in the Croatian relation as well.

According to the president, the Croatian side should introduce the practice that the Hungarian Party uses, in the sense that, between two committee meetings, more

personal talks and evaluations about the status of objectives should take place. Mr. Osztrogonácz also considers it very important to negotiate with both Parties before plenary meetings; however, as mentioned previously, in most cases this only happens with the Hungarian Party. On this side of the committee, they are able to negotiate with responsible governmental bodies as well.

He highlighted that although talks with the Croatian side of the committee have not occurred in past years, the minority-minority relationship has been built up; the Association of the Croatian Nationality in Hungary and the Democratic Union of Hungarians of Croatia have developed the practice of having negotiations prior to committee meetings about problematic issues and potential solutions.

The president pointed out that, in certain areas, implementation is still lacking. It is, in any case, honorable that many large-scale developments have been executed in the frame of the committee – for instance, the construction of a Croatian kindergarten, elementary school, secondary school and dormitory in Budapest, as well as the Hungarian Educational and Cultural Centre in Osijek/Eszék, support for the establishment of the Croatian Theatre in Pécs, and the Miroslav Krleža elementary school, secondary school, and dormitory in Pécs has also been developed, among others (József Osztrogonácz, 2020).

Concerning the representative of the Hungarian minority living in Croatia, the president of the Democratic Union of Hungarians of Croatia, Mr. Róber Jankovics stressed that their participation in the Croatian side of the committee is fully secured. Since minority representatives are appointed by the Croatian government, it goes without saying that they have the opportunity to formulate new recommendations and negotiate with Croatia about different issues. Mr. Jankovics pointed out that, in the past three years, his party, the Democratic Union, has also been invited to the preparatory meetings of the Hungarian side; therefore, they have been able to participate in talks in person, and there was an opportunity to represent the interests of the Hungarian minority living in Croatia on both sides of the committee (Róbert Jankovics, 2020).

The president also emphasized the statement of the president of the Association of the Croatian Nationality in Hungary that the Hungarian national minority living in Croatia maintains good relations with the representatives of the Croatian national minority living in Hungary. According to the president, the two communities do not have many common objectives, since the Hungarian national minority is one of the “old” minorities

– in contrast to the new minorities, for instance Serbs, and Bosniaks – and the rights of the Croatian minority living in Hungary are much broader and more developed than those of the latter. Therefore, it is quite difficult to identify common goals and areas of cooperation, but it is true that relations between them are friendly.

In summary, it may be noted that the relation of national minorities with their kin-states in the case of Croatia and Hungary can be characterized positively, as being without significant disputes and disagreements. Although the Croatian national minority living in Hungary formulated some concerns, they were not connected to the nature of relations with the kin-state, but with the recent absence of personal negotiations before committee meetings. Minority representatives did not emphasize the lack of communication between each other, but the absence of a proper form of talks that focus solely on the work of the joint committee. On the other hand, the representative of the Hungarian national minority was satisfied with their relations with the kin-state, as well as the home state – pointing out that their opportunity to participate in the work of the committee was well established with both Parties.

#### ***5.6.4. The Hungarian-Slovak joint committee***

The relations and committee can also be characterized as an entirely “operational”, since meetings have been held almost every year and bigger intermissions have not occurred. Similarly to other committees, the nature of relations between the countries have significantly influenced the work of the committee. The minority representatives participating in the work of the committee are, as also mentioned previously, the parliamentary spokesperson of the Slovak minority in Hungary, and the president of the Slovak National Self-Government of Hungary. The Hungarian national minority is represented by more minority representatives and experts, who participate rather occasionally in the work of the committee. The body is also unique compared to other committees, in the sense that the representative of the Hungarian minority living in Slovakia, the member of the Party of the Hungarian Community, participates only on the Hungarian side of the committee and has not been involved in the talks on the Slovak side since 2010, as also previously mentioned. In this section, his views will be highlighted, besides those of the two above-mentioned representatives.

The spokesperson for the Slovak minority living in Hungary, Mr. Antal Paulik, regarding the negotiations with the Slovak state emphasized that although the Slovak side typically organizes a preparatory meeting before committee meetings, representatives of the Slovak minority living in Hungary are not invited. Moreover, representatives of the Hungarian minority living in Slovakia are not always asked to participate in these negotiations either; it always depends on the actual government, on the actual governmental policies, as well as on the participating minority representative. Mr. Paulik also added that, for instance, regarding the last committee meeting in 2019, he was not aware of preparatory negotiations at the level of experts in Slovakia, but concerning the plenary meeting, he had the impression that prior talks had not occurred. Members of the Slovak side often confronted each other during the talks, and several issues and objectives were decided among them only at the meeting itself (Antal Paulik, 2020).

On relations with the Slovak party, concerning the processes and the work of the joint committee, the spokesperson highlighted that relations between them operate mainly through the intermediation of the Slovak Embassy in Budapest, and it is mainly the Embassy that asks for their opinion about several issues. However, the mentioned communication is not always beneficial or successful, since has frequently occurred that the representatives of the Slovak minority have explained their objectives and newly formulated committee recommendations, but the Slovak side misunderstood them, or other intentions were communicated by Slovakia at the subsequent meeting (Antal Paulik, 2020). Apparently, the reasons for this may be political, and it may occur that the main emphasis is shifted during the wording of the document, but the most likely explanation is inadequate communication between the two sides.

The spokesperson also added that, in the past, it seemed that the Slovak Party had not really shown an interest in the issues of the Slovak minority living in Hungary in general, nor in connection with preparations for the committee meetings. For the Slovak national minority, however, it would be very useful to have consultations, or a closer relationship with each other. Correspondingly, Slovak representatives living in Hungary only being informed about the objectives of the Slovak party only shortly before the committee meeting or at the meeting itself could be avoided. Through prior talks, they would never face the situation at meetings that their previously formulated objectives, sent to the Slovak party via the Embassy, would appear in the document in a very different form (Antal Paulik, 2020).

The president of the Slovak National Self-Government in Hungary strengthened the above claim that she is also able to take part in the work of the committee on the Slovak side through the Slovak Embassy, which coordinates the preliminary procedures of the work. Her experience has been that, after drawing up a draft protocol, the Slovak side amends it several times. On the preliminary processes of the Slovak side, the president highlighted the following:

*“In Slovakia, the Ministry of Foreign and European Affairs coordinates the drafting of the protocol, since the Office for Slovaks living Abroad, as well as the Embassy, fall under the jurisdiction of the Ministry. This means that we also maintain our relations with the Ministry. It has occurred several times, though, that we did not see in the draft protocol the recommendations of the other responsible Slovak bodies and ministries – nor those that related to us. We have asked for this practice to be changed, not because we assume they seek to harm us, but because if we are not familiar with the recommendations, we cannot take a stand on the given issues on the committee meeting. Therefore, it would be useful to collect all the recommendations of the Slovak side at the Ministry, and then, only after that process, to forward them to the representatives of the Slovak minority living in Hungary” (Erzsébet Racskó, 2020).*

However, she also added that the Ministry contacts the National Self-Government even at the beginning of the preparatory process to receive an evaluation about the realization of past recommendations, and to formulate new objectives, and only after this process is the draft protocol sent to other responsible bodies in Slovakia. In general, the preparation of the protocol happens in more stages, but the president also pointed out that the representatives of the Slovak minority in Hungary are certainly not involved in some steps, since past protocols contained several recommendations that were completely new to them at committee meetings (Erzsébet Racskó, 2020). According to the above, it seems that it is the final version of the protocol that does not reach the representatives of the Slovak minority in Hungary – and which, in most cases, contains many amendments that the minority representatives are uninformed about.

The president agreed with the minority spokesperson that personal negotiations with the Slovak Party would be very useful, but they are, for undisclosed reasons, not invited, perhaps due to domestic policy considerations. On the Slovak side, even the

involvement of the representatives of the Hungarian community, the Party of Hungarian Community (*Magyar Közösség Pártja*) has been a sensitive issue, which may be the reason why representatives of the Slovak community living in Hungary are not invited to these talks either (Erzsébet Racsó, 2020). It should be noted, as also mentioned in the previous chapter, that the representatives of the Party of the Hungarian Community have not been invited to the joint committee by the Slovak government since 2010, this being the reason why the representative of the Party has been involved in work on the Hungarian side of the committee.

In spite of the above-mentioned difficulties, the president regards it as a positive development that they are able to represent their interests towards both Parties, even if in relation to Slovakia this happens only through written statements. The effectiveness of the process obviously varies, and with better communication the recommendations could be formulated more accurately. Similarly to several other relations, Mrs. Racsó added that there are common objectives between Slovakia and the Slovak minority living in Hungary – for instance, in the area of minority education, in connection with financing, and with other aspects, but many problems have already been jointly solved by the two Parties. To conclude, on relations between their kin-state she highlighted:

*“It should be seen, after all, that for Slovakia the issues of Slovaks living outside the border, and the policies followed towards them, are not as crucial as in Hungarian policy-making. For Slovakia, dealing with Slovak national minorities is not a political priority in any way. This can be observed during the processes and work of the joint committee as well”* (Erzsébet Racsó, 2020).

The representative of the Hungarian community living in Slovakia and member of the Party of the Hungarian Community in Slovakia – being a member of the Hungarian delegation for the reasons explained above – pointed out the exceptional situation of his not being involved in the Slovak side of the committee. He highlighted that at committee meetings he participates as a legal expert, but as a Slovak citizen belonging to the Hungarian national minority living in Slovakia, on the side of Hungary (Ákos Horony, 2020).

The case of the Slovak side also differs from other relations and parties because in the Slovak delegation several members and experts represent the Hungarian community living in Slovakia, albeit only on an ad hoc basis. The circle of these representatives



changes often, and involves no permanent minority representatives in the work of the committee, unlike on the Hungarian side. Furthermore, at the last meetings, representatives of the Most-Híd civic party, then a governing party, participated in the work of the Slovak side. However, it is known that this party is made of members with a Hungarian, as well as Slovak nationality. Thus while these participants were of Hungarian nationality, they were involved in the work of the committee on Slovak side “only” by reason of their position in the government, not as ‘official’ representatives of the Hungarian national minority in Slovakia. Correspondingly, a peculiar situation evolved on the Slovak side concerning minority representatives. However, this issue should be cleared between the Parties, and a solution for securing the permanent involvement and presence of minority representatives should be found.

Concerning the behavior of Slovakia, the representative explained that it can be characterized by the way it handles the activities of the joint committee as formal tasks, so the work of the committee leads to only minimal results for the Hungarian community in Slovakia. Its operation is more beneficial for the Slovak community in Hungary. Mr. Horony explained that, also for the above-described reasons, he has very close relations with the kin-state, Hungary, but that communication with Slovakia is completely absent. The expert concluded that an interesting practice can presently be observed during the work of the committee – namely, that it is only or primarily Hungary that formulates positive new objectives in favor of both minority communities: the Hungarian community living in Slovakia, and the Slovak community in Hungary. The Slovak side, albeit to varying degrees, has abandoned both minority communities, and the work of the committee is not a priority issue, in general (Ákos Horony, 2020).

In summary, the relations of the Slovak national minority in Hungary with their kin-state can be characterized neither as well functioning and close, nor as non-existent and hostile. Slovak minority representatives have the opportunity to explain their interests and objectives in connection with the joint committee to the Slovak party, although this can only happen in writing and with the help of other bodies (for instance, the Slovak Embassy in Budapest). Representatives clearly lack the opportunity for personal talks before committee meetings with their kin-state, yet they consider this important, not only because it would make them feel more involved in the work on the Slovak side, but also because it would make communication easier and clearer. Hungarian minority representatives of Slovakia (or more properly, the legal expert involved on the

Hungarian side of the committee for the reasons explained above), maintains friendly relations with the kin-state, as this is the only opportunity for him (for the Hungarian community) to voice his aims and recommendations in the frame of the committee. However, for Hungary in general, the protection of the rights of Hungarian national minority living in Slovakia are highly prioritized, and Hungary represents the interests of Hungarians beyond the borders in joint committees as well, while the structure of the Slovak joint committee should be transformed. By doing this, Hungarian minority representatives would be able to represent themselves better not only on the side of Hungary in the committee, but on the side of the residing state, Slovakia, as well.

#### ***5.6.5. The Hungarian-Romanian joint committee***

The committee has similarities with the Hungarian-Ukrainian relation, because the last plenary meeting was organized almost 10 years ago; subsequently, only a meeting of secretaries took place in 2016. The work of the committee was never characterized as successful, and could not represent the aims of national minorities, respectively the objectives of Hungarian national minority living in Romania. In the past decade, relations have deteriorated between the Parties to a degree that they no longer even organize committee meetings; the problematic issues and differing views between them in connection with the issue of national minorities, hinder cooperation entirely. Due to the above reasons, the views of minority representatives presented here should be interpreted as being relevant to those years when the committee held its negotiations, from the 1990s until 2011. The Romanian national minority living in Hungary has been represented by the former president of the Romanian National Self-Government, and the Hungarian national minority living in Romania by the member of the Democratic Alliance of Hungarians in Romania.

The former president, in connection with negotiations and relations with the Romanian party, noted that he usually participated in preliminary talks with the Romanian side, although the nature of relations between Romania and the Romanian minority living in Hungary may briefly be summarized as involving neglect and disinterest. He explained the reasons as follows:

*“It has to be seen that the policy-making of Romania that is followed towards its nationals living abroad is different to that of Hungary’s. The Romanian state*

*acts according to, on the one hand, a policy of grievance, and, on the other hand, a policy of triumph; these are different approaches. For Romania, dealing with the Romanian national minority living outside the border is not that self-explanatory as it is for Hungary, and it handles the issue very differently. The Romanian state holds that Romanians reside outside the border for differing reasons – for instance, they reside in other countries only temporarily, for a shorter time; then there are the Romanian diaspora communities that may be categorized based on different features, and so on, so it [the Romanian state] manages the issue in light of these aspects. The kin-state support for Romanians living abroad and the state's attitude towards them does not even approximate the Hungarian perspective, or our perspective” (Traján Kreszta, 2020).*

Furthermore, he also added that the policymaking of Romania is interest-based. This means that, for instance, if the Romanian national minority living in Hungary cannot be involved or ‘used’ in and for particular political issues of importance to Romania, relations between the kin-state and its national minority are neglected. This is the general policy-making of Romania, and there is presently no objective of the kin-state for which the kin-minority would be ‘useful.’ Recently, the situation may only have changed for the reason that the Romanian minority in Hungary has somewhat increased in number, but this has not influenced the political lines of conduct of Romania yet. For the above reasons, at joint committee meetings, Romania and the Romanian minority in Hungary typically could not formulate common objectives, since this has not been the primary objective of the kin-state. Furthermore, it is absolutely obvious that there has always been an enormous difference between the proposed recommendations of the Hungarian side in relation to the Hungarian national minority living in Romania, and of the Romanian side for the Romanian minority living in Hungary. The Hungarian minority has always asked for much more support and defined more objectives than the Romanian community in Hungary, because the latter community is much smaller in number (Traján Kreszta, 2020).

The former president, regarding their presence in prior talks, added that even when representatives of the Romanian minority living in Hungary participated in preparatory meetings on the Romanian side, they were not able to effectively represent their interests or negotiate with Romania, and have often been disregarded to a large degree. Mr. Kreszta also emphasized that the policy of Hungary towards its minorities living

outside the border is not based on reciprocity, since the state deals with its nationals in spite of the policies of home states towards Hungary. In practice, support for Hungarians residing abroad is realized – for instance, by financial and by other means. Furthermore, Hungary supports not only its kin-minority, but also other nationalities residing in the country, independently of the policies and practices of dealing with Hungarian national minorities in the kin-states of these minorities. This practice is highly beneficial not only to Hungarians living abroad, but to the other national minorities living in Hungary (Traján Kreszta, 2020).

The representative of the Hungarian minority living in Romania, Mr. Árpád Márton, in connection with relations with the Hungarian side and related preparations, summarized that the kin-state, prior to committee meetings, has always communicated with Hungarian non-governmental organizations, with the Democratic Alliance of Hungarians in Romania, and with the Hungarian delegations in Romania to assess their situation – asking them what objectives they recommend for inclusion in the subsequent protocol. He also emphasized that the Romanian side have almost never shared information with Hungarian representatives about issues connected to the joint committee; they have often received the information about the date and location of the next committee meeting, as well as the draft protocol, from members of the Hungarian side. Mr. Márton also noted that representatives of the Hungarian minority did have, at least in theory, the opportunity to participate during the finalization process of the protocol at committee meetings; however, concerning the preparation phase, only the Hungarian side asked for their opinions and their future objectives and recommendations. Relations, however, were quite problematic not only between Romania and the Hungarian minority living in the country, but also between the two states, despite the former organization of committee meetings. It should be noted, though, that the kin-state, Hungary, has on many occasions stood up for the Hungarian minority living in Romania. The representative recalled a case when...

*“it has occurred not only that the Hungarian representatives were not informed about the committee meeting, but that when we received the information about it, the Romanian side did not want to let us in to the meeting. The Hungarian Party, who arrived among others with the president of the Romanian National Self-Government of Hungary, expressed that if this was the case, they were not willing to sit down at the negotiating table. Finally, the Romanian prime*

*minister had to instruct his subordinates [to cooperate] so that we could participate in the negotiation” (Árpád Márton, 2020).*

Mr. Márton also highlighted that the presence of the representatives of the Hungarian national minority living in Romania, even in spite of their adverse relations with the Romanian party, had often been useful because they could prevent unnecessary conflicts and tensions between the Parties. For instance, they could clarify particular misunderstandings arising from improper translation or, in certain cases, hinder the formulation of disadvantageous agreements or recommendations related to the Hungarian national minority. It also occurred that the Hungarian foreign minister had the aim of signing the treaty at all costs, but the Romanian party insisted on a few – for the Hungarian community, unacceptable – elements and aims, and the Hungarian minority representatives had to vigorously object to these recommendations (Árpád Márton, 2020).

Based on the above, in both cases (concerning the relations of the Romanian national minority in Hungary, as well as the Hungarian national minority living in Romania), relations can be characterized as unfriendly and non-cooperative. Representatives of the Romanian national minority in Hungary did not have favorable relations with their kin-state. They were invited to preparatory meetings only in certain cases, when they were able to present their interests to a very limited degree. For Romania, as pointed out, the protection of kin minorities was not and is not a priority area, and this may clearly be observed in the frame of the joint committee as well. Even when Romanian minority representatives participated in the preparatory talks on the Romanian side, they often experienced total neglect. The Hungarian national minority living in Romania were able to represent their objectives on the part of the kin-state, and their interests were protected and promoted by Hungary at committee meetings as well. Hungary also provided some information to the Hungarian national minority in connection with the work and meetings of the committee, so their relations functioned well in terms of improving the situation of the Hungarian minority living in Romania, although in the frame of the committee, such input was not successfully acted upon.

#### ***5.6.6. The Hungarian-Serbian joint committee***

The present joint committee was the latest of the examined committees to be established. In the 1990s, Hungarian-Serbian relations were not forward looking, mostly because Serbia, as a kin-state, was struggling with its own economic and social crisis, as briefly mentioned in Chapter IV. From 2003, when the work of the committee started in Serbia, there were crucial problems that had to be solved prior to those of the Hungarian national minority – for instance, dealing with the consequences of the former political crisis and economic breakdown. However, for the Serbian minority living in Hungary, it was a significant development that, within the framework of the joint committee, they were able to deal with the accumulated problems of the community, at least on Hungarian side. In the committee, the Serbian minority in Hungary was represented by the parliamentary spokesperson for the Serbian minority and by the president of the Serbian National Self-Government, and the Hungarian national minority living in Serbia by the president of the Hungarian National Council of Serbia.

In connection with kin-state and minority relations, the spokesperson for the Serbian minority living in Hungary, Mr. Alexov Lyubomir, noted that at preparatory meetings of the Serbian side representatives of the Serbian minority living in Hungary did not and do not participate, and they are not invited to by the kin-state. The spokesperson explained, however, that if the Serbian minority is informed of who holds the position of Serbian co-chairman, they are able to and (and are used to) contact(ing) them, as well as sending them written documents that include their objectives and recommendations for subsequent committee meeting, so that the Serbian Party is aware of their aims by the time of the talks. Mr. Lyubomir also highlighted that representatives of the Serbian minority living in Hungary demand and feel the need for personally meeting the Serbian members of the committee before plenary meetings, although during the operation of the joint committee this has occurred only once. This is mainly due to the fact that on the Serbian side there is no developed preparatory mechanism through which they can participate (Alexov Lyubomir, 2020). It should be noted that this lack of preparation is rather unusual concerning joint committees in general. It occurs in many cases that some sides occasionally do not organize preparatory meetings, but the general practice in all cases involves some prior talks and preparation.

The spokesperson also highlighted that, for example, at the last committee meeting in 2016 it appeared that the Serbian Party was unprepared for the talks. Mr. Lyubomir

explained that the representatives of the Serbian minority in Hungary maintain relations with the Serbian Embassy of Hungary, and with the Serbian government, in general, although they are not directly involved in preparations, partly because the Serbian side does not engage in ‘real’ preparations. As mentioned, at least the Serbian representatives have never received an invitation to such events, and are unaware of the organization of such talks (Alexov Lyubomir, 2020).

In connection with the issue of involvement or lack thereof of Serbian national minorities living in Hungary in the work of the committee on the Serbian side, as well as with the general policy followed towards them, Mr. Lyubomir pointed out that this issue should be considered in light of other aspects, since the problems are more comprehensive:

*“While in Hungary the issue of Hungarian national minorities living outside the border is a priority on a governmental level, with an appointed minister, deputy prime minister, and state secretariat, in Serbia national minority policy concerning the Serbian national minority living outside the border is not at the forefront of policy-making, and is not stressed. For several years, there was no responsible governmental body for dealing with the issue. Of course, we understand that the main emphasis of the kin-state is not on the Serbian minority living in Hungary, and it [the present situation] is also because there are two countries in which the situation of the Serbian minority is unproblematic, and these are Hungary and Romania”* (Alexov Lyubomir, 2020).

He also highlighted that there are other more crucial and unresolved issues in Serbia, and more generally in the Balkans, than the issue of national minorities beyond the border. Furthermore, in Hungary the Serbian minority is not very numerous and the two communities cannot be numerically compared. However, in recent years, many problems involving the Serbian community living in Hungary have been solved, and it was unthinkable for the Serbian community 20 years ago that the situation would develop so swiftly. Nevertheless, closer relations with the kin-state would be useful and necessary in relation to preparing committee meetings. In spite of this, the spokesperson considers it a big success that representatives of the Serbian minority are able to turn to various bodies with their problems and recommendations, including the joint committee

itself on the Hungarian side, and most of their objectives are taken into account, and have been implemented thus far (Alexov Lyubomir, 2020).

According to the president of the Serbian National Self-Government of Hungary, Mrs. Lászlóné Szutor, closer relations existed with the kin-state in the past, as well as with the Serbian co-chairman of the committee, who had the opportunity to explain the ongoing problems of the Serbian minority living in Hungary to the kin-state. However, the Serbian Party never devoted as much attention to the recommendations and objectives of the Serbian minority as the Hungarian side did. This is also because the Hungarian Party has always recommended more objectives due to the much higher greater number of Hungarian minority individuals living in Serbia (Lászlóné Szutor, 2020). On the other hand, as the president pointed out about the relations between Hungary and Serbia, the latter have never been as positive as nowadays:

*“In the past, we experienced that Serbs are not as popular in Hungary because the policy-making of Serbia differs from that of Hungary, and we also felt that we do not belong to the constituent parts of Hungary. However, political directions have significantly changed in the past 10 years, and relations between Hungary and Serbia have become very good and friendly, which is of crucial importance for us – for the Serbian minority living in Hungary, as well as for the Hungarian minority living in Serbia – because it is beneficial for us as well”* (Lászlóné Szutor, 2020).

The representative of the Hungarian national minority living in Serbia, the president of the Hungarian National Council, Mr. Jenő Hajnal emphasized that during its more than 20 years of operation, the Council has developed excellent relations with both the Hungarian and Serbian government, thereby creating a bridge among the two countries. It is due to this relationship that their opinion matters in Hungary and in Serbia. Accordingly, the Council has always had the opportunity to represent its interests on both sides of the committee. The president added that it is also thanks to the cooperative attitude between Hungary and Serbia that informal governmental cooperation between the Parties is at its historical peak. Correspondingly, the meetings of the two governments have become more regularized (Jenő Hajnal, 2020).



Furthermore, as the president pointed out, the operation of the committee has another indirect, positive effect: it has helped forge closer cooperation between the Hungarian National Council and the Serbian National Self-Government in Hungary, significantly exceeding the level of cooperation envisaged by the joint committee. The two bodies strengthened their relations through the conclusion of a cooperation agreement in 2017, and, based on the agreement, some cultural bodies of the Serbian minority in Hungary and of the Hungarian minority in Serbia have concluded a similar agreement, tightening up their relations as well (Jenő Hajnal, 2020).

In the case of the Hungarian-Serbian joint committee, it can be concluded that, although the Serbian minority living in Hungary does not participate in the preliminary work of the Serbian Party for the reasons explained above, they consider that this would be important and beneficial. Moreover, they evaluate the work of the committee positively in terms of helping them solve many of the crucial problems of the Serbian national minority living in Hungary. Their opportunity to participate on the Hungarian side, as well as the opportunity to implement their objectives through the accepted protocols, is realized without specific help from the kin-state. Based on the experience of the representative of the Hungarian minority living in Serbia, the situation of the latter differs from that of the Serbian minority in the sense that the Council that represents the mentioned community has well-grounded and friendly relations with both Parties, and is thus able to represent it aims towards both sides of the committee.

To conclude the above subsection, it should be noted that it was highlighted in almost all relations that the work of the joint committee in general, as well as the involvement of kin minorities on the side of the kin-state, is significantly dependent on the policies that kin-states follow towards their national minorities abroad. In other words, these policies and attitudes are observable in the frame of joint committees as well. It is also noticeable that the kin-state policy of Hungary differs from that of the majority of examined countries. While for Hungary the protection of the rights of kin minorities and general provisions for them are associated with highly prioritized political areas, in other kin states such issues often are not located in the same category. Differences between the policies of other kin-states also occur, thus the 'level of importance' of kin minorities is not similarly managed. This also significantly determines the approach of

states to the work of joint committees and the extent to which their operation is considered relevant.

#### **5.7. Recommendations for increasing the effectiveness of minority representation and participation in joint committees**

From this examination of joint committees, it transpires that certain areas should be developed in connection with the effectiveness of minority representation and participation, in line with the main topic of the present research, and connected with the general operation of committees. Since the vast majority of minority representatives take part in the work of committees for a significant amount of time, their substantial practical experience about their operation and the shortcomings of particular joint committees and their recommendations for improving their work serve as interesting, useful, and genuine contributions, as well as items for future consideration.

In certain cases during the interviews it occurred that representatives were satisfied with the general operation of the given committee, as well as with the effectiveness of minority participation and representation. However, according to majority of representatives specific improvements and methods should be introduced to increase the power and effectiveness of minority representatives, as well as the efficiency of committee work in general.

As has been highlighted, with regard to several relations the organization of committee meetings has in some cases, and sometimes for many years, not occurred. Needless to say, in these cases appraisals of the substance and meaning of effectiveness is limited to the arrangement of future committee meetings, which is also highlighted by minority representatives as the most crucial area for “improvement”. The other strongly emphasized issue was the frequency of meetings, since based on the establishing treaties these should be organized at least on a yearly basis in order to secure the continuity of work. However, this practice has not been followed; in several relations, meetings are organized only periodically; in others, multiannual gaps occur, and a few relations more or less follow the suggestion of a maximum of one-two year breaks between meetings. The third statement commonly agreed on by interviewees was that the Hungarian practice operates well, and should be replicated by other states. In Hungary, as mentioned, signed protocols are accepted by government decisions that define the ministries responsible for implementation. Due to this process, recommendations

eventually become realized. Although some objectives are fulfilled only after several years, or even after a decade, these protocols are adequate reference points for national minorities seeking to increase their negotiating power. In this sense, in Hungary national minorities are in advantageous position compared to Hungarian minorities living in neighboring states, since the latter countries generally do not follow the Hungarian practice of ensuring the binding nature of recommendations that are accepted. According to several minority representatives, effectiveness could be increased if, when both Parties accepted the protocols, government decisions specified the bodies responsible for realization as well. Additionally, through the organization of committee meetings on a yearly basis, Parties could at least inform each other about successfully implemented objectives or the actual processes and situation of accepted recommendations. However, as the spokesperson for the Serbian national minority highlighted, the mentioned aims are only hypothetical, since reality indicates a totally different situation. When committee meetings are not organized for several years, even government decisions that are accepted decline in significance, and neither the responsible bodies nor the majority of committee members deal with past objectives (Alexov Lyubomir, 2020).

Concerning relations where negotiations have been frozen for many years (for instance, involving the Hungarian-Romanian joint committee), it would be useful for the countries to turn over a new page, put aside past recommendations, and draw up new objectives so that the whole process of joint committees could be restarted. However, as concluded by the former president of the Romanian National Self-Government, this would require that both sides move beyond formerly contentious issues and the most crucial present obstacles and anxieties (Traján Kreszta, 2020).

On improving the presence of minority representatives, it was emphasized that this should be secured by continuity and more stability. The Slovak spokesperson mentioned that, on the part of the Slovak national minority living in Hungary, in some cases two, and in others three minority representatives participate in the work of the committee, and the situation is similar on the part of the Hungarian national minority in Slovakia. It also occurs that the Hungarian Party invites Hungarian experts from Slovakia to take part in meetings, but on the Slovak side, this practice does not occur. The spokesperson recommends defining those persons, positions, and organizations that should in general participate in the work of the committee in order to ensure consistency on both sides. In

the case of Hungary, besides the president of the Slovak National Self-Government and the Slovak minority spokesperson, the Hungarian side occasionally invites representatives of Slovak non-governmental organizations in Hungary to meetings. While for the other Slovak minority representatives it always turns out only at the preparatory meetings whether representatives of other organizations are present, the spokesperson and the National Self-Government are not asked or informed about this in advance. According to the Slovak spokesperson, the participation of three minority representatives, with the involvement of the non-governmental sphere, would be highly beneficial, since this way the NGO level could obtain first-hand experience of the work of the committee, and would be able to influence decisions. Obviously, the committee cannot be endlessly expanded because it would become ungovernable this way; however, Parties should decide on further solutions concerning the aforementioned issue of defining the members and experts of the committee prior to the organization of meetings. The circle of participants is not written in stone; it is not defined, thus the meetings of secretaries prior to committee meetings, for instance, could help secure the proper framework for defining the individual representatives (Antal Paulik, 2020).

In connection with minority representatives, it was not only the need for the involvement of the non-governmental sphere that was highlighted, but also the fact that the relevant communities are underrepresented in given bodies, and the proportions thereof have been modified. Since the joint committees were established to support minority communities, the number of minority representatives should be harmonized with this aim – in other words, their number should be increased. As the president of the Slovak National Self-Government pointed out, it would be beneficial to involve other minority representatives into the work of the committee, although she is aware of the fact that the number of members cannot be raised indefinitely, and presently it is already quite high. However, the proportions could be to some degree altered, and the number of minority representatives could be increased without raising the number of committee members as a whole. Moreover, the latter also recommended more systematic communication between the Parties in order to facilitate progress with issues that tend to stagnate in the long term. Certainly, committee meetings organized yearly would be the best option for communicating with each other, but when this cannot be realized, Parties should find other channels of negotiation in order to discuss the areas of

cooperation, the actual situation of past objectives, as well as the course of action required until the subsequent committee meeting (Erzsébet Racskó, 2020).

Besides the presence of minority representatives, the attributes of the two co-chairmen were stressed as a feature crucially defining the nature of talks and the success of negotiations as well. Several minority representatives raised the point that in past years the co-chairmen lacked either professional knowledge or other attributes, thereby being unable to reach agreement with the other Party and deal with minority issues properly, or overview the general situation of minority groups. As highlighted by the former president of the Slovenian National Self-Government in Hungary, it is useful when co-chairmen are familiar with the minority community, as well as with the functioning of the committee in general. Furthermore, it is also beneficial for the co-chairmen to be acquainted with the situation, life and problems of minorities through field visits, for instance, since this knowledge and experience can define the general outcome of committee meetings. In the past, this has been lacking to some degree; co-chairmen have not always been familiar with the actual situation of minorities they have dealt with, or have been specialized in other issues unconnected to national minority matters. The former president also pointed out that this situation changed several years ago, positively affecting the processes of joint committees. Thanks to this development in the Hungarian-Slovenian relation, for instance, both co-chairmen knew both national minority communities and their circumstances very well. This mentioned practice could be usefully used by governments in the future to more effectively achieve results in committees (Márton Ropos, 2020).

Another recommendation for improvement is that the effectiveness of committees could be increased by better preparing the plenary meetings, in greater detail. According to the experience of the Croatian spokesperson, the preparation of recommendations does not happen at the same level with both Parties. His opinion was that the Hungarian Party usually prepares draft protocols appropriately and thoroughly, although this does not happen in the same way with the other Party. As a result, several committee meetings have been protracted events, and the signing of protocols occurred only at night. The spokesperson recommended changing this practice by either organizing two-day committee meetings, or preparing the protocols and negotiating about problems in greater detail prior to plenary meetings. Thereby, protocols could be signed at the

meeting itself, after ‘running through’ the previously defined and negotiated recommendations. However, in order to hold several rounds of prior negotiations, both Parties should act as partners and agree on the relevant procedures. He also noted that the establishing treaties did not define, as a mandatory condition, that the protocol must be signed at meetings. The principle of mutual trust supposes that, for instance, the two co-chairmen could sign the protocol at a second meeting, without the participation of other committee members (József Szolga, 2020).

The legal expert representing the Hungarian community living in Slovakia also formulated a recommendation about the operation of the committees, highlighting that the work of meetings should better emphasize written procedures and follow-up. Presently, the focus of work is on the formulation of the protocol – Parties try to agree on the final text of the document at plenary meetings. Furthermore, Parties inform each other about the achievements in relation to implemented and non-realized objectives only personally at the subsequent meetings. The expert’s opinion is that it would be more useful to accomplish this task prior to the next meeting in writing, and subsequently personally negotiate about future objectives. Both countries could summarize concrete steps and results achieved in writing, and to the mentioned document representatives of the Hungarian national minority in Slovakia and the Slovak minority living in Hungary could add their reports and summaries about given issues. Subsequently, Parties could formulate their questions and objections in connection with the summaries. The next committee meeting and the drawing up of new recommendations would occur only after the above-described process. The expert also suggested that the aforementioned summaries and reports on achievements and non-realized projects should be attached to the texts of protocols as well. This practice would make the processes more trackable for other bodies and for the public in general, revealing the concrete efforts that have been taken to solve some minority problems (Ákos Horony, 2020).

Connected to recommendations that are accepted, the representative of the Hungarian minority in Slovenia noted that efficiency could obviously be increased through the concrete implementation of accepted recommendations through limiting the number of newly defined objectives. According to the representative, the formulation of long protocols should be avoided, and instead 2-3 recommendations or aims should be

defined on a yearly basis. Correspondingly, governments would be able to commit themselves to the realization of these aims within a year. He also noted that, contrary to Hungarian practice, in Slovenia the accepted protocols are not strengthened by law, thus the commitment of the government to their realization is also lacking. Therefore, it has happened that recommendations formulated a long time ago appear in protocols on a permanent basis, degrading the work of the committee to a certain degree (Ferenc Horváth, 2020).

Last but not least, two brief opinions of minority representatives will be presented that also relate to the issue of increasing the effectiveness of committees, although this mostly depends on the political climate between the Parties, as well as on decisions and high-level political conduct. According to the representative of the Hungarian minority in Croatia, the effectiveness of joint committees does not depend primarily on committee members or on processes, but more on wider political circumstances, and on the nature of political and general relations between two countries. National minorities and the joint committees are not able to influence the formation of these relations, as a general rule. This means that when political relations are functioning properly, committees are able to work effectively as well (Róbert Jankovics, 2020).

The representative of the Hungarian minority in Ukraine also emphasized that the cooperation of two states and the operation of the committee depends on the political climate in the given country/ies. He noted that, in order for the work of the committee to continue, the nature of the Ukrainian state should be altered. The country should be newly constituted on the rule of law, and the present ruling elite should also be changed, so that future decision-makers would not ground or establish their power on a fascist state ideology. He stated that neither in Ukraine nor in international politics does such a player exist that could currently carry out or influence the mentioned transformation in the country (Miklós Kovács, 2020).

In summary, minority representatives formulated practical recommendations for developing the work of committees that are clearly based on concrete and well-founded proposals. These recommendations reflect their experiences that have been obtained, in the majority of cases, through many years participating in the work of specific committees. This is also the reason why their views should be taken into consideration when organizing upcoming committee meetings – because this would make not only the

participation of minority representatives, but also the operation of committees more effective in general.

#### **5.8. Joint committees: effective bodies representing minority claims, or ‘followers’ of the actual political situation**

The issue of effectiveness was previously examined from various viewpoints in connection with minority representation, as well as with the general operation of joint committees. However, concerning the underlying substance of committees, political aspects and the nature of political relations between the countries cannot be neglected when analyzing their operation. For this reason, minority representatives were asked to express their views about whether joint committees in most circumstances represent the interests of national minorities, or if their operation is mainly dependent on the nature of political relations between the two countries, in accordance with the nature of the political stance of the two governments.

Joint committees, as is known, are established by two specific governments, therefore these bodies are political “creatures” and their success and effectiveness cannot be understood in isolation from broader political considerations. However, based on the views of minority representatives and previously examined issues, the interesting question is how these committees operate when political relations can be characterized as friendly, and whether they are able to function when relations are problematic. Furthermore, when a non-friendly relationship defines the operation of a committee, it is also highly important to understand to what degree this hinders its work. The vast majority of minority representatives were clearly of the opinion that this question cannot be answered simply; thus, joint committees can be characterized, to some degree, by both situations. Putting it simply, joint committees represent minority issues and protect their interests, since this is the purpose of their establishment, although their work and operation are significantly determined by the nature of political relations between states.

As mentioned above, in periods when committees function properly and Parties are willing to cooperate, these bodies provide significant help in relation to representing the interests of national minorities. However, it should also be noted that, although committees have been established in order to deal with national minority issues, they



also cover a wider spectrum of other areas, thereby influencing the political relations between states significantly (Alexov Lyubomir, 2020). When neighborly relations operate appropriately between two states, this attitude drives the work of joint committees forward as well. It should not be neglected, though, that disagreements sometimes occur between countries, even if they maintain good relationships, but some problems can be solved or negotiated in the frame of joint committees, at least in the case of several relations (Márton Ropos, 2020).

Interviewees also observed that breaks occurred concerning the work of certain committees mainly because relations between the two states were not adequate for organizing committee meetings. According to the president of the Croatian National Self-Government, if both countries seek to protect their national minorities and promote their interests, differences can be resolved, and both Parties are able to admit that for the realization of minority objectives, joint committees, in fact, secure the proper background. The president also highlighted that in those relations in which the situation and future of a national minority depends on the decisions of the joint committee, work should go on despite the actual political relations and climate, since the functioning or non-functioning of committees determines the lives, future, and rights of national minorities very significantly (János Gugán, 2020).

The representative of the Hungarian community in Serbia added that both statements can be considered valid, giving an example from the practice of the Hungarian-Serbian committee. In the period 2011-2016, committee meetings were interrupted because of a deterioration in relations between countries that made talks impossible. However, after a meeting of the two presidents in June 2013, a new era of cooperation started and relations normalized, thus Parties were able to hold a committee meeting in 2016. In 2017, a joint committee meeting was not organized, and according to the representative, was not necessary, since all the relevant issues in connection with national minorities were negotiated at the meetings of two governments (Jenő Hajnal, 2020).

Concerning the situation of the two – in the past decade, stagnating – joint committees, the Hungarian-Romanian and the Hungarian-Ukrainian, problematic and burdensome political relations between the states largely defined the operation of the joint committees, resulting in the cessation of talks. The Romanian parliamentary spokesperson noted that this was mainly because the policy-making of Romania is interest-based, as mentioned above, thus joint committees have been considered bodies

that should serve the interests of the state. On the other hand, as also highlighted, in many states, including Romania, the protection of national minorities living outside the border is not a priority political issue; correspondingly, the work of joint committees is treated likewise (Traján Kreszta, 2020).

The former president of the Ukrainian National Self-Government noted that political relations strongly define other areas of cooperation between states, and in this manner the work of joint committees as well. It is self-explanatory that the Hungarian-Ukrainian committee will not hold negotiations if “relations are in ruins”, and the two Parties cannot reach agreement about many issues. The former president also expressed her hope that joint committee negotiations, as well as talks on other platforms, would continue. According to her, it would presently still be quite easy for states to start developing a positive and forward-looking relationship. However, by pursuing the present policies, mainly on the side of Ukraine, conflictual relations may also deteriorate to a degree that countries will not be able to cooperate in any areas, and animosity will prevail, having negative and irreversible consequences. However, she also noted that, in order to achieve this goal, a type of political leadership should be present that follows a policy line of cooperation, and is willing to identify shared solutions. In conclusion, she added that for the above-mentioned reasons, the decisions and approaches of “high politics” definitely define other areas of interaction (Jaroslava Hartyányi, 2020).

Furthermore, as also stated by representatives, the work of joint committees lacks substance without the existence and characteristics of the political relations and political situation between states; having one without the other is unrealistic. The effective implementation of joint committee recommendations cannot occur without adequate political relations between the two countries – this is particularly crucial and determining (Róbert Jankovics, 2020). Accordingly, the frequency of meetings and their temporary cancellation, as well as the harmonization and preparation of recommendations and the signing of protocols, all show the character of the political relations between the two states (József Osztrogonác, 2020).

On the other hand, although it is the political relationship between countries that defines the work of committees, it also occurs concerning several countries that when political relations are not friendly and cooperative, the work of joint committees becomes more accentuated. In the contrasting case, if bilateral relations function properly, the

organization of committee meetings is more likely to be of peripheral importance because the crucial issues are dealt with at the meetings of the two governments. For instance, concerning the Hungarian-Slovak relation, the two countries have always managed and monitored each other's actions at the level of high politics, while other negotiations proceeded accordingly in the light of the 'result' of monitoring. Nowadays, as the Slovak minority spokesperson mentioned, this "monitorization" seems to have stopped or decreased, but it still means that political relations determine the acts of states, and correspondingly, joint committees as well (Antal Paulik, 2020).

The president of the Slovak National Self-Government, as well as several other representatives, emphasized a very important perspective – that, although both statements in this subchapter are valid, it should be acknowledged that the political weight and power of national minorities residing in the two countries in most cases cannot be compared, mainly because of the numerical differences. In all the examined relations, the number of Hungarian minority individuals living in neighboring countries is greater, and in several countries much greater, than the number of nationals of the respective state living in Hungary. For instance, in the case of Hungary and Slovakia, as noted by the president...

*“the Slovak national minority living in Hungary cannot be compared to the Hungarian national minority in Slovakia. It is an important issue for both Parties how they assess and see the situation of the Hungarian national minority in Slovakia, therefore they evaluate our recommendations and situation through that prism. Correspondingly, opportunities to represent our interests are limited because the work of the joint committee is not particularly about us; this asymmetry can be clearly observed. This also occurs during the formulation of the few recommendations and objectives in which in many cases we, the Slovak national minority in Hungary, are named, but the situation of the Hungarian community is always the most crucial defining feature behind the scenes. In this context, the statement is valid that joint committees mirror the political relations between the two states, since the situation of the Hungarian minority living in Slovakia strongly defines Hungarian-Slovak relations. Of course, this forum also helps secure several, limited, opportunities for us as well. But we are aware that*

*there is a framework that limits our opportunities and possibilities, as well as our weight in this process” (Erzsébet Racskó, 2020).*

The legal expert representing the Hungarian minority living in Slovakia somewhat disagreed with the above view, mentioning that for him the joint committee seems to be a useful representative forum mainly for the Slovak minority living in Hungary, since the Hungarian Party implements the recommendations of the committee considering the latter as a kind of intergovernmental commitment. However, the same cannot be stated about the Slovak party (Ákos Horony, 2020).

The view that joint committees first and foremost represent minority interests was only emphasized in a single case, by one minority representative. The Croatian parliamentary spokesperson pointed out that if joint committees reflected the actual political relation between the two countries, Croatia and Hungary would not organize joint committee negotiations. According to him, the work of the committee is conducted in favor of the Hungarian national minority living in Croatia, and the Croatian national minority living in Hungary. The members of the committee try to negotiate and make decisions that are independent of the actual political issues and problematics during the preparation of recommendations. Representatives of the committee take into account the interests and benefits of the two communities, and try not to become involved in or take a stand about particular political issues (József Szolga, 2020).

The complete opposite of the above, and a different experience to that encountered by other representatives, is when the situation applies to a joint committee whose work is not only highly dependent on political relations between states, but hostile attitudes are present on one side. The representative of the Hungarian minority in Ukraine experienced that during the period in which joint committee meetings were organized, the two governments confronted each other in connection with numerous issues. The Hungarian government accepted and supported the objectives of the Hungarian national minority living in Ukraine, but the Ukrainian representatives, irrespective of the official ideology and approach of the incumbent regime, opposed these in every case, whenever possible. This practice determined the impotence of the joint committee as an institution, leading to the complete cancellation of talks (Miklós Kovács, 2020). In other words, the approach of decision-makers concerning the issue of national minorities, in this case the Hungarian minority living in Ukraine, fully and negatively determined

former as well as present talks. The approach of Ukraine to the Hungarian national minority living in the country could not be altered either by the minority itself, or by Hungary. Furthermore, in the mentioned relation the Hungarian national minority was, in many cases, the reason for conflict at a higher level of politics as well, as often claimed by the Ukrainian Party. The minority representative also highlighted, similarly to the observation made about the Hungarian-Slovak relation, that the joint committee was mainly established to protect the rights of the Hungarian national minority living in Ukraine, because that community is much more numerous. However, this aim could not be realized, and its work was characterized by the rejection of those objectives of the Hungarian community living in Ukraine that were formulated in close consultation with Hungary (Miklós Kovács, 2020).

### **5.9. Conclusion**

The present section of the thesis has summarized the views and experiences of minority representatives in connection with the effectiveness of committees according to certain topics and areas, as highlighted above. In conclusion, the majority of interviewees formulated similar viewpoints; as a matter of course, the work and the nature of some minority communities differs, but way in which committees operate, as well as specific problems, are very comparable.

The political participation of minority representatives in committees was defined as a crucial criterion that enables the latter to represent the specific minority group in the bodies thus established to protect their rights and interests. Due to the opportunity for political participation and representation, representatives, in ideal cases, are not only able to achieve specific objectives that are important for minorities, but also have the possibility to negotiate with other representatives and public administration bodies, and through the signed and accepted protocols their aims reach the governmental level. However, the opportunities for political participation can always be developed, and the level they are ensured at is highly dependent on the specific joint committee; notably, on the particular government(s).

Minority representatives evaluated their involvement in the committees differently, depending on the relation. Their full involvement would include being able to effectively participate in the work of the committee during preparatory negotiations, as well as in committee meetings. In this context, effective participation presumes that their objectives and views are respected, as well as included into the protocols of

meetings, followed by the implementation of aims by responsible bodies. Another crucial feature of their effective participation is the involvement in the work of the committees of both countries, by the kin-state and by the home state. In most cases, the objectives of minority representatives are taken into account and are included into protocols. However, the realization of objectives often occurs only after several years, or even after decades, albeit in some instances at a faster pace. It should be emphasized that minority aims must be negotiated with other members of committees, and for some reasons (for instance, financial ones), it may occur that many minority aims have to be moderated by other representatives of committees.

In two of the relations mentioned above, minority representatives have not been able to effectively influence decisions – even when they were present in committee meetings or in some preliminary talks, their aims were neglected by their home state. Moreover, the operation of these committees stopped after a time. As a general conclusion, in connection with the involvement of minority representatives on the side of their kin-state, it can be stressed that Hungary has always involved its kin minorities living in neighboring states into preparations, irrespective of country and relation. Hungarian kin minorities, in most cases, have participated in preparatory negotiations on the Hungarian side, or were contacted in writing and asked to present their aims to the Hungarian Party. Regarding the other six kin-states, they did not follow the practice of Hungary: some countries involved their kin minorities in preparatory decision-making concerning their committee objectives in writing, through informal negotiations, or through embassies in the given home countries, but an organized form of preliminary personal negotiations was lacking in all of the examined countries. This is also because the kin-state policies of these states differ significantly from those of Hungary – a situation that can be observed in connection with the above-mentioned level of involvement of kin minorities in the work of committees, but in other issues as well. For Hungary, providing for and protecting the rights of its kin minorities living beyond the border has always been a political priority, although in neighboring countries this tendency did not and does not prevail. Therefore, the work of committees is also evaluated differently – in other countries it is not accentuated in the way that it is in Hungary, and the protection of kin minorities residing in neighboring states is more or less neglected.

In addition, it should be noted that the success of the work of committees is highly dependent on the views of countries about national minority issues, as well as on the nature of political relations between states, and between the home state and the given national minority. It was observed from the above interviews that these three features strongly influence the operation of committees: if states neglect national minority issues, cooperation cannot be taken forward. Similarly, if political relations between countries or between the home state and the given national minority group are non-friendly or hostile, this also hinders the progress in, or even the operation of, the joint committees. This was been the case regarding the Hungarian-Ukrainian and the Hungarian-Romanian relation. Numerous conflicts and problems arose not only between Hungary and Ukraine, and Hungary and Romania, but between Ukraine and the Hungarian national minority residing in the country, and the same occurred in the case of Romania. Almost all minority representatives agreed that if joint committees operate properly, they could effectively represent and implement the objectives of national minorities. However, the nature of the actual political situation between states and between the home states and the national minority should be considered the main guiding feature in connection with the work of the former. Therefore, the previously presented constructivist theory, as well as Brubaker's triadic nexus model, also supported in connection with the operation of minority committees. Constructivism emphasizes that evaluations, norms, past and present experiences, and even imagined or real notions strongly determine the behavior of players towards each other. Accordingly, it has been proven that the nature of bilateral political relations between countries, as well as between countries and national minorities, which is mainly based on the features constructivism refers to, also determines the success of cooperation in the bilateral committees under analysis. Conflicts of interest between two particular countries or between the home state and the given national minority crucially determine the future of any kind of cooperation. This finding strengthens Brubaker's model of the conflicting interests between the home state, kin-state, and the national minority that is presented in Chapter I and Chapter III, which is found to be highly correct in that the interests of the aforementioned parties must be somewhat reconciled when their aim is to cooperate and achieve common objectives or, in the present case, realize goals that support the given national minority group *in practice*.

Minority representatives also mentioned some useful recommendations for increasing the effectiveness of committees in the future concerning the processes and operation of bodies in general, as well as their presence and influence. Based on their views, the work of most committees should be made more consistent by organizing related meetings systematically, on a yearly basis, a recommendation that was formulated in the establishing treaties. The Parties of the two non-functioning committees should renew their cooperation and relations by formulating new objectives and finding common solutions to problematic issues. In connection with minority representation, the circle of minority participants could be increased or their proportion in committees could be raised, so that representatives of other minority organizations could also be involved in the work. Furthermore, kin-states should involve the representatives of their national minorities that reside in neighboring states into prior personal negotiations on their side, because in this way, the objectives of national minority groups could be represented more effectively towards both Parties, and communication with kin-states could be made clearer. However, these processes and the involvement of national minorities into decision-making processes is also highly dependent on the policies that kin-states follow towards their national minorities living outside the border and the importance awarded by the kin-state to the mentioned groups and to the protection of their rights in the home state.

In summary, the operation of committees could be further developed through several means if both Parties consider this important, since in the majority of bodies crucial “innovations” and changes should be secured. Although the work of committees does not only concern the functioning of these bodies, as has been mentioned, it is highly dependent on the character of general political relations, as well as on certain other features. In spite of this, throughout the years the implementation of smaller, as well as more significant projects has been achieved in the frame of bilateral committees that was of help to national minorities. These processes should be continued in the future as well, even if most committees are only able make progress or implement objectives at a slower pace. Furthermore, the work of joint committees can not only be evaluated on the basis of realized objectives, but also by whether they able to secure a sort of negotiating forum between the respective two countries, thereby deepening cooperation and hopefully, good neighborly relations.



## **Chapter 6: CONCLUSIONS**

The international minority rights protection regime builds on the acknowledgement that persons belonging to minorities may need special minority rights that secure their full enjoyment of human rights, including the right to identity. The right to identity and its different dimensions require special measures; nevertheless, such minority rights in general never constitute “additional benefits” for minorities, as their aim is to respect and protect those features of minorities that already were and are unequivocally and essentially ensured for the majority. The protection of minorities is fundamentally the responsibility of the state in which they live, although in the past decades a complex international regime of minority rights has developed at a multilateral level and, in some cases, in bilateral relations. However, in many cases difficulties arise because some states neither accept nor apply such multilateral or bilateral standards of minority protection, and, evidently, do not draw up a sufficient regulatory framework of minority protection on the national level. Still, in most cases domestic instruments are also formed by the application of international norms in national legislation. One of the key areas in this regard is the representation of minorities and their participation in political life. International documents on minority rights have been adopted in relation to Council of Europe provisions, while the OSCE usually urges states to create appropriate mechanisms to secure the effective participation of minorities in public life. In addition to this, international instruments may create international forums for minorities to articulate their claims and participate in decision-making regarding issues that particularly affect them. The present thesis has attempted to prove that bilateral treaties and intergovernmental committees may work as such representative forums for minorities.

The thesis examined the issue of the effective political participation and representation of national minorities through a practical framework of implementation in Central Europe: namely, the work of intergovernmental committees on national minorities between Hungary and its six neighboring countries. As has been emphasized during this examination, the focus of the thesis was an analysis of the effective political participation and representation of national minority representatives participating in the

six bilateral committees based on interviews conducted with them latter, as presented in Chapter V.

The Central European region was selected not only for personal reasons or for being the professional area of the author, but also due to the fact that in Central European countries national minority issues have always been significant but also problematic issues, and the region serves as excellent terrain for examining the situation of national minorities in neighboring states. It should be noted, as is highlighted in the research, that the conclusion of bilateral treaties on minority rights and the establishment of bilateral committees has not only been characteristic of the Central European region – there a few other examples in Europe from the post-WWII period. What makes the Central European region specific is that bilateral minority protection treaties have been adopted almost in parallel to new multilateral instruments, and also making direct reference to them. Accordingly, these treaties seem to be better integrated into the complex regime of international minority rights.

In order to put the issue of the effectiveness of political participation and representation of national minorities in the six examined bilateral committees into a general context, certain other issues and sub-questions had to be analyzed that are closely connected to the main research topic. Therefore, the research examined how multilateral instruments formulate the “essence” of the effective political participation and representation of national minorities. The political, historical and legal context in Central Europe was more deeply examined in order to help understand how specific regional circumstances influence the implementation and interpretation of minority representation/participation. It was observed that in the multilateral context – in multilateral binding and non-binding documents – the meaning of the political participation and representation of national minorities has typically been defined in general terms, and general means and methods have been defined by these documents for states to increase the effective political participation of national minorities. It should be noted that, according to the majority of examined documents and based on everyday practice, the most important requirement of the political participation and representation of any group in decision-making processes that is incorporated into the texts is “*effectiveness*,” since without this groups or persons are not able, in practice, to influence decisions at any level. It should also be noted, obviously, that broader international norms formulate generalized requirements for “effective participation” but

the domestic legal implementation of such norms and principles is decisive. Thus, countries and governments should decide on the most appropriate way to involve national minorities into domestic decision-making processes, since the decision-makers of a state should be most familiar with and sensitive to the problems of minorities residing in the country. However, as was observed during the research, the majority of the Central European states that were examined secure the protection of national minorities of their country in some form through international, bilateral and other documents, but these rights are often only theoretically respected (i.e. remain “on paper”), thus their practical implementation is in many cases lacking. As briefly presented in Chapter III, the nation- and state-building efforts of some of the newly established or independent Central European states in the 1990s resulted in nationalist policies and acts promoting the interests of the core nation, as emphasized by Brubaker, and the neglect or violation of the rights of minorities, as well as attempts to assimilate them into the majority society. The nationalist acts of these countries, and the handling of national minorities residing in the country as enemies or opponents, are in most cases based on the fear of the state of the given minority or of the kin-state of that minority endangering the unity of the state and having revisionist aims. Although these fears, at least in the case of Hungary and her neighbors, have not been established as fact and cannot be considered valid, they negatively influence the relationship between the states and between the national minority and the home state. As could be observed, these invalid assumptions and deeply rooted societal views and conflicts – as emphasized by social-constructivism and presented during the research – in a few instances have determined the political relations between countries and thus the situation and work of bilateral committees on national minorities as well.

It was also emphasized by the thesis, in connection with the above, that minorities may need special opportunities for political participation. Beyond those political rights awarded to all citizens (voting rights, right to association, etc.), national minorities, in order to preserve their identity, should be secured more *specific opportunities, rights and processes* to enable them to participate effectively in decision-making at a group level, mainly regarding those decisions that affect their group directly. This objective can be secured through various means depending on their situation on the given country – for instance, through the reservation of seats in parliaments for their representatives, or lowering the threshold criteria for minority parties entering parliament, and through other means highlighted in the thesis. In any case, there is a legitimate need to create

legal opportunities for minorities to participate and engage in bilateral inter-state relations between their home-state and the kin-state.

The thesis has examined one specific form or body of the implementation of the practical participation and representation of national minorities in Central European countries: the intergovernmental committees between Hungary and its neighbors. Bilateral committees enable and secure a unique opportunity for the representatives of national minorities to be involved in decision-making processes that directly affect their lives. The establishing treaties thereof, in almost every case, highlight that representatives of national minorities should be involved in the work of these bodies on both sides. At the beginning of the 1990s, when the majority of establishing documents were signed by the examined states, this was a crucial development compared to those of the previous decades. However, it should also be emphasized that the decisions of bilateral committees and the protocols signed in a few CE countries were/are non-binding, and are thus considered only as recommendations for the respective governments. Furthermore, the involvement of minority representatives into the work of committees in itself does not mean they are able to effectively influence decisions in these bodies – which situation may be considered a peculiar drawback, since such committees were established to promote the interests and objectives of the mentioned groups. In spite of specific features defined as essential components regarding the operation of committees, their work in most relations has proven to be useful only in implementing the less substantial objectives of national minorities.

The main focus of the research, however, was not on the achievement of objectives of committees, but on the effective political participation and representation of national minority representatives in the bodies. In order to gain first-hand experience about the mentioned issue – after introducing and analyzing the background of the research, as well as dealing with the general operation of joint committees –, the thesis presented details of personal interviews that were conducted with minority representatives that participated in the last committee meetings in all the six examined relations. Interviewees shared not only their experiences and views regarding the above-highlighted issues, but also about other topics closely connected to the effectiveness of minority participation and representation, and to their relations with the home state and kin-state concerning the operation of committees as well. The vast majority of interviewees had participated in the work of the given committee for many years,

although, for the sake of process traceability, minority representatives participating in the last plenary meetings were interviewed, as mentioned. Interviews proved to be sufficient and useful methods of obtaining practical information and knowledge about the experiences of minority representatives regarding the effectiveness of their participation in the committees and other issue. Furthermore, the interviewees made some significant recommendations concerning the potential development of the operation of committees that are worth consideration.

With regard to the above, the *initial hypothesis* of the research emphasized that the examined joint committees secure only limited opportunities for the political participation and representation of national minorities, in the sense that in the joint committees only a limited circle of the respective national minority is represented. These representatives, or more properly, the sending parties and organizations are, in most cases (except for in the Hungarian-Ukrainian and Hungarian-Serbian relations, where the relevant treaties identify the representative body of the minorities) arbitrarily chosen by the respective governments and by the co-chairmen of committees. Accordingly, the legitimacy and representativeness of minority members of joint committees is a cardinal issue. Following on from the first hypothesis, the *second hypothesis* argued that the effectiveness of bilateral committees does not depend on the legal institutions themselves, as enshrined in the relevant treaties, but more significantly on the political relations and commitments made between the two parties, as well as on the reciprocity between the two particular countries.

Based on the documentation of committee meetings, the protocols, and the interviews prepared with minority representatives, the first hypothesis proved to be partially correct. Regarding the presence of minority representatives taking part in the work of the examined committees on the Hungarian side – except for the Hungarian-Slovenian and Hungarian-Croatian relation – two minority representatives participate from the same kind of sending institutions, therefore the mode of representation follows the same pattern. As has been highlighted, these representatives are the presidents of national self-governments and the parliamentary spokespersons of the given national minority. Concerning the two other aforementioned relations, on the side of Hungary in the Hungarian-Slovenian and Hungarian-Croatian committee the presidents of the most relevant minority NGOs take part in the work of the committee, with one additional minority representative each. On the side of neighboring countries the situation differs,

because the Hungarian national minority is represented in almost all relations by the president or a member of the biggest Hungarian party, thus one Hungarian minority representative participates in every committee. The only exception is the Hungarian-Slovak relation, in which an officially appointed Hungarian minority representative is presently not involved – the Hungarian minority is represented by presidents or members of some minority organizations on a temporary basis. The circle, persons, and sending parties of organizations of minority representatives were defined by the Parties during the initial phase of cooperation, and these practices have not changed throughout the years. The only innovation in the committees concerning the involvement of minority representatives was implemented by Hungary in the form of the establishment of the position of parliamentary spokespersons for national minorities in 2014, who from that time have taken part in the committees. Regarding the above process and the examination conducted during the research, it can be concluded that the circle of minority representatives was arbitrarily chosen by the respective governments during the initial area of cooperation. The establishing treaties, except for in the Hungarian-Ukrainian and Hungarian-Serbian relation, did not define the circle of minority representatives that should participate in committees. Therefore, on the side of Hungary it is almost self-explanatory that the two (in certain cases three) minority representatives participate in the work of committees. In the neighboring countries, the situation has been more complex, because the presidents or members of the biggest Hungarian minority parties have been involved in the committees, the latter which in many cases (or in most periods) were parliamentary parties as well. Thus, for the governments of neighboring states it was unequivocal that the Hungarian minority would be represented by the mentioned parties in the committees, while in certain other cases (Ukraine, Romania), it was reluctantly noted that minority representatives should participate in these bodies. However, it should also be emphasized that the participation of Hungarian minority representatives in the work of committees on the side of neighboring countries was influenced by Hungary to a large degree. As already noted, the Hungarian government cooperates with or considers an ally only a single Hungarian party in every neighboring country, and in the committees, on the side of given neighboring countries, the partners of Hungary (the members of the supported Hungarian minority parties) have participated. However, this raises the issue of representativeness, as well as questions the practical realization of the representation of rights because in neighboring countries other Hungarian minority parties and organizations exist that also represent

the interests of a significant proportion of the Hungarian minority. Accordingly, their participation in the committees should also be considered. For example, in the Hungarian-Ukrainian Joint Committee the Hungarian national minority has always been represented by the president or members of the Transcarpathian Hungarian Cultural Association (KMKSZ). However, the Democratic Alliance of Hungarians in Ukraine (*Ukrajnai Magyar Demokrata Szövetség*, UMDSZ) – another Hungarian party that was established after Ukraine gained independence in the 1990s – has also enjoyed the significant support of Hungarians living in Ukraine. In spite of this, the party has not been involved in the work of the committee because KMKSZ has always been considered the main partner and ally of Hungary. Similarly, members of the Party of the Hungarian Community (MKP), the biggest Hungarian minority party in Slovakia, and a parliamentary party until 2010, have participated in the work of the commission as representatives of the Hungarian national minority. However, in the period following 2010, the party did not get into the Slovak parliament but remained the main partner of the Hungarian government – the only party the kin-state was willing to cooperate with. Moreover, Slovakia did not accept members of the MKP as representatives of the Hungarian community in the joint committee from this time on (2010), and, as highlighted above, members of the party could not participate in its work. The Most-Híd civic party, an ethnically mixed party that partially deals with the interests of the Hungarian community, became a parliamentary party in 2010, and its members were appointed by the Slovak government to participate in the work of the joint committee. As highlighted in the thesis, Hungary managed this situation by permitting the representative of MKP to participate in the work of the committee on the Hungarian side as an “invited expert” following 2010. With respect to the above-mentioned case, it can be concluded that the interests of Hungarians living in Slovakia could not be represented by a single party, since a significant proportion of Hungarians voted in 2010 for Most-Híd, and a large percentage for MKP. This implies that the representativeness of minority participants and organizations in committees – concerning whether they represent the community as a whole – may be questioned. Based on the research, the minority representatives of a particular party or organization have the obligation to represent the whole minority community; however, in many cases this is not possible because, generally speaking, minority representation can only be achieved through the involvement of a wider range of minority parties and organizations from the given community. Remaining with the case of Slovakia, besides the two aforementioned

parties several NGOs are present in the country that deal with different issues important to the Hungarian minority and protect the interests of the community, thus one or more of their representatives could be involved in the work of the respective committee.

It should also be stressed that Parties, in the absence of regulation connected to the number of representatives of, and in most cases also the identity of the sending organizations of minority representatives, have (have had) the opportunity to increase or decrease the number of minority representatives at all times, as well as to alter or put an end to the participation of the sending parties and organizations represented in committees (however, throughout the years, the circle of minority representatives has not been altered by the Parties compared to the original setup). Moreover, when a country aims to involve other minority members, or basically any other individuals, into the work of the committee on its side, a preliminary negotiation with the other Party is not required. Accordingly, Parties, or more specifically, co-chairmen and governments, have a wide range of comprehensive or even arbitrary powers in this respect. The fact that minority representatives are basically arbitrarily chosen in all probability implies that the participants, sending parties, and organizations are in most cases able to represent only a limited fraction of a national minority in general. Based on the interviews presented in Chapter V, it is known that the minority representatives participating on the Hungarian side, presidents of National Minority Self-Governments and parliamentary spokespersons in most cases maintain close relations with each other, and agree about crucial objectives prior to committee meetings, making them able to represent their aims more vigorously. Since the National Self-Governments coordinate the work of the minority self-governments of the given national minority in Hungary, they are able to perceive the situation of their national minority community on a state level, and, together with the parliamentary spokesperson, are able to represent the most crucial objectives of the given minority living in Hungary more effectively. Regarding the Hungarian minority representatives participating on the side of neighboring countries, the situation differs – as mentioned above –, and it cannot be unequivocally stated that a party that is the ally of the Hungarian government is able to represent the interest of the *whole community* effectively, mainly for the reasons highlighted above. In countries where more Hungarian minority parties exist, the community, as well as the interests and representation of the Hungarian community, may be divided.



The second hypothesis – that the effectiveness of bilateral committees essentially depends on the political relations between states and not on the bodies as legal institutions – is considered valid. Based on the protocols of committee meetings, on the analysis of the character of political relations between states, and on the interviews that were undertaken with minority representatives, it can be observed that it is mainly the nature of political relations between countries that influences the frequency of committee meetings, as well as the success of the work of committees. In those instances or in periods when relations between the two states are conflictual and unfriendly, the work of committees is liable to cease, as occurred in the case of Hungarian-Ukrainian and Hungarian-Romanian relation. Furthermore, it has also occurred that, during periods of conflict, committee meetings were organized only after pauses in their work, and when protocols were signed the recommendations thus adopted were not implemented, or only after a long time. It was also stressed by a few minority representatives that in some cases committee meetings were not/are not organized even during those periods when relations between states were passable, because they had been able to negotiate national minority issues in other forums. Furthermore, it is very rare but it happens that Parties, in spite of their problematic relationships, organize committee meetings aimed at reaching agreement about less important national minority issues, but neglect other, often more crucial problems. Although not stated in the initial hypotheses, the research showed, mainly on the basis of the interviews with minority representatives, that it is not only the nature of relations between two particular countries that defines the success of cooperation in the frame of bilateral committees (and regarding other areas of cooperation as well), but also the character of relations between the home state and the given national minority residing in that state (for instance, between Slovenia and the Hungarian national minority residing in the country). The participation and representation of national minorities in general decision-making processes, the opportunities that are secured for these communities, as well as the acceptance of their proposed objectives during committee meetings of bilateral committees also strongly depends on the relationship between the two actors – the home state and the residing national minority – that has evolved during decades of “living together.” Furthermore, this relationship is also strongly determined by the policies and approaches of the home state that are followed towards national minorities with regard to the protection of their rights and promotion of their interests. During the research it was observed that some home states have secured the opportunity for

national minority representatives to participate and influence committee decisions both during the preparatory phase of negotiations, as well as during the plenary meetings. On the other hand, other countries, although they more or less enable the representation of minority participants in negotiations, do not take their objectives into account, thus the latter have been unable to influence decisions, or only with the help of the kin-state.

The principle of reciprocity was also highlighted by the second hypothesis in the sense that between states it is to be considered the decisive factor when implementing certain objectives in connection with national minorities. In practice, this principle would imply that when state A deals with the national minorities of state B in a certain way – for instance, it protects and promotes their rights in the country – then state B will act the same way as well. However, this assumption regarding the bilateral committees between Hungary and its neighbors is only partially applicable. In principle, bilateral committees work in a reciprocal way, but kin-state activism differs to a great extent and it definitely affects their work. The main reason for this is that states relate to the national minorities residing in the country, as well as to their kin minority living in other states differently. For instance, for Hungary the protection of its kin minority outside the border has always been a political priority. Furthermore, Hungary also protects the rights of national minorities residing in the country through various means and the establishment of regulations that provide appropriate opportunities for national minorities to preserve their identity, including supporting these groups financially. However, in some neighboring countries, neither the issue of national nor kin minorities is a prioritized area or policy target. In these states, the interests and rights of national minorities, including the Hungarian national minority, are protected and taken into account to various degrees. In certain states, as was emphasized in the research, national minorities, including the Hungarian minority, face discrimination, although in other countries their rights are more properly respected. Furthermore, the fate and situation of the kin minority of states residing in other counties does not attract the close attention of several kin-states, as mentioned above. Therefore, it can be summarized that the principle of reciprocity does not prevail between the examined states, since Hungary, irrespective of the approach towards and protection of rights of Hungarians residing in neighboring states by home states, promotes and protects the identity and rights of national minorities living in Hungary. This positive practice of Hungary is not correlated to the frequency, organization or success of committee meetings and accepted

recommendations, nor with the character of political relations between the two particular states. It should be added as well that reciprocity does not apply in the sense that the size of the Hungarian national minority residing in neighboring countries significantly exceeds that of other national minorities residing in Hungary, therefore, the recommendations of committees should be formulated on the basis of this, although in practice this does not occur.

During the analysis, it was also observed that the practice of intergovernmental joint committees in Central Europe is grounded on or corresponds to an identifiable regional model of minority protection that represents the national minority communities. However, the establishment of bilateral treaties on good neighborliness and other treaties dealing with the protection of national minorities, and therefore the set-up of joint committees on national minorities, is not a Central European peculiarity. In other European and non-European countries similar treaties and bodies were established to deal with the problems and issues of the mentioned segment of society as was briefly presented in Chapter III, with reference to some European, as well as non-European examples. However, the Central European region stands out due to the relatively large number of national minority groups residing in these countries, as well as historical events accompanied by problems that involved many issues related to national minorities. In the region, the joint committees of Hungary and its six neighbors operate on the exact same principles, based on similar processes and practices, implying that these bodies may be considered a regional model of minority participation and representation. It should also be emphasized although joint committees secure the opportunity for national minorities to take part in their work – a crucial development and opportunity for minority participation – the effectiveness of committees varies because of several factors that have been highlighted in the research. The most determining feature is the nature of political relations between Parties and the approaches of states towards national minorities that have evolved over time, as mentioned above.

The future operation of joint committees is highly important, not only as regional models enabling national minority participation and representation, but also as bodies implementing their objectives in practice to protect the rights and identity of the latter more effectively in the states concerned. However, it should also be noted, as was emphasized by the minority representatives, that states should make some changes to

develop the future operation of committees and increase the effectiveness of minority participation and representation, as well as of the other general processes of the bodies. According to a large number of minority representatives, the most crucial area for improvement should be the regular, annual organization of committee meetings in all relations, as well as the initiation of renewed cooperation in the frame of two committees (Hungarian-Ukrainian and Hungarian-Romanian) the work of whose committees has been lacking for almost 10 years. The other important area where the effectiveness of committee work should be increased is the practical realization of the objectives formulated and accepted in the signed protocols. Based on the interviews, as well as on the protocols, it should be noted that the vast majority of objectives have remained in the protocols for many years or decades, without practical or effective implementation, and a significant proportion of recommendations of the protocols were realized only after years or decades. In the future, this process should be changed, so that the work of committees can bring more practical benefits and progress. The aims included in protocols should be implemented more effectively, otherwise this will question (and indeed already questions) the credibility of bilateral committees and the protocols themselves. Furthermore, in order to support the implementation process, all countries should accept the protocols as mandatory documents through government decisions or binding action plans, as well as appoint the governmental and other bodies responsible for the realization of committee objectives. In this way, the work of committees could be made more accountable.

In conclusion, through the effective operation of intergovernmental committees on national minorities, several of the problems of the aforementioned groups could be solved – a crucially important goal for the Central European region, where the problems and right of these groups cannot be ignored. Otherwise, the neglect of minority issues may lead to the fragmentation of societies, animosity between majorities and minorities, as well as between states themselves. The effectiveness of committees depends on many factors, as is explained here, but mainly on the representatives of national minorities, and the operation of the latter bodies varies from relation to relation, and from time to time. The most important benefit of committee work, as well as most crucial challenge, is the practical and effective realization of minority participation and representation, which is now achieved to various degrees in the examined countries.

Bilateral committees, besides dealing with the protection of national minorities, secure – or in certain relations where they are presently non-functioning, could secure – a proper background and negotiating forum: an “interface” between countries through which problems can be solved and their deeper escalation can be prevented. When committee meetings are regularly organized and such bodies operate properly, friendly relations between states could and can be successfully maintained or even deepened to create cooperative relationships. However, since these bodies were established to promote the interests and protect the identity of national minorities, as well as to involve them in decision-making processes, they should primarily focus on the effective implementation of these initial aims. In order to do this, bilateral committees, governments, as well as co-chairmen, should initiate further crucial changes so that such committees can function better by maintaining their effectiveness, or starting to operate more effectively, depending on the relation. Bilateral committees neither have the power, nor were established to deal with the issues of high politics, but through the latter framework Parties can reach agreement about specific issues regarding national minorities. Furthermore, in many cases, countries, through negotiations realized in the frame of committees, may even be able to handle the escalation of other problems that affect their relations and be able to develop or maintain stronger, well-functioning relations with each other.

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3. Interview prepared with the president of the National Self-Government of the Hungarian community in Prekmurje (*Muravidéki Magyar Önkormányzati Nemzeti Közösség*), Mr. Ferenc Horváth on 15 April 2020.
4. Interview prepared with, the president of the Democratic Union of Hungarians of Croatia (*Horvátországi Magyarok Demokratikus Közössége*), Mr. Róbert Jankovics on 25 March 2020.
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6. Interview prepared with the president of the Slovak National Self-Government of Hungary, Mrs. Erzsébet Racsó, on 28 February 2020 in Budapest.
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9. Interview prepared with the parliamentary spokesperson of the Croatian national minority living in Hungary, Mr. József Szolga, on 25 February 2020 in Budapest.
10. Interview prepared with the parliamentary spokesperson of the Slovenian national minority living in Hungary, Mrs. Erika Köles, on 11 February 2020 in Budapest.

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