



**Postgraduate Research
School of Political
Science**

ABSTRACT

Balázs Dobos

**The Policy Analysis of the Minority Policy in
Hungary**

The Example of the Minority Act

PhD thesis

Counsellor:

Dr. Ágnes Tóth

Director

Budapest, 2009

Institute of Political Science

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1. Research background and justification for the subject examined

As a case study the PhD thesis aims to introduce and analyze one of the most important aspects of the Hungarian minority policy after the political change of system, the political processes related to the Act 77 of 1993 on the rights of national and ethnic minorities, and to its overall amendment, the Act 114 of 2005. Therefore it interprets the concept of minority policy as regulatory policy processes according to Theodor Lowi's classification. It utilizes the basic concepts and analytical tools of the policy approach of political science, and the examination of effective minority participation in public life serves as another guide, which can be closely related to the theories of democracy. The latter idea involves a wide range of issues, like the articulation of ethnic interests, the activity of ethnic parties and organizations, the creation of appropriate electoral systems, the establishment and permanent functioning of relevant parliamentary and governmental institutions and mechanisms of reconciliation and consultation, and last but not least, the realization of minority self-governance in different forms. The concept of effective minority participation in public life could gain

serious ground in the past 15 years of international minority protection and deserved significant attention from scientific scholars due to the management and regulation of ethnic issues and conflicts.

The concept of minority policy expressed in the main title here refers to the totality of policy related to both laws. This includes lengthy processes of political decision-making, negotiations, and institutional procedures, and even overarching political regimes in the first case. As a consequence of the gaps in the relevant literature I find it necessary to refer to historical, legal, and administrative relationships in certain cases, too. The thesis concentrates on an Act, which proves to be quite important from both domestic and international point of view, whereas it aims to regulate both the individual and collective minority rights, including autonomy, and the relations between the majority and the minorities. In connection with the Act, several and fundamental–theoretical, practical, political and professional–questions, problems, dilemmas have been emerged. These may explain the central position of the law in different political and scientific actors’ attention. Obviously there is no doubt that in a state guaranteeing democracy and rule of law the Minority

Act may have particular political and legal role besides the relevant constitutional provisions.

The periods examined by the conducted research are between 1988-1993, and 1997-2005 according to the political agenda-setting and formulation of minority issues in Hungary. Its starting point is the successful agenda-setting of the law in 1988 and it finishes at the enactment of the overall amendment in autumn 2005. Because of the unsolved question of preferential minority mandate in local governments it enhances the time frame until the 2006 parliamentary elections and additionally its partial objective is to give an outlook for the most important sectoral developments after 2006, as updating the former analysis.

The formulation and enactment of the Hungarian Minority Act proved to be an integral part of the democratization processes of the East Central and Southeast European region which has not been free from ethnic tensions and conflicts in the modern history. Before Hungary several countries adopted its own minority law, even before (re)gaining their independence: Lithuania in 1989, Estonia in 1990, Croatia and Latvia in 1991, and Belarus and Ukraine in 1992. This group of states was followed by others (Czech Republic, Moldova, Serbia, Poland), and some states later

replaced its earlier version with new laws (Estonia, Croatia). Furthermore it also indicates the political and legal importance of minority laws that the issue still belongs to the crucial demands of certain East Central European minorities, including some Hungarian communities living abroad (Romania, Slovakia, and Slovenia).

In respect of minority issues both international and domestic political actors, and scientific researchers are mostly interested in those ethnic groups, that are large in numbers, sharing a high level of group consciousness, having clear boundaries, are mobilized on political levels, articulating definite political and legal demands, and in doing so they are not exceptions to violence. More precisely the phenomenon of ethnic conflict often deemed necessary between the disadvantageous minority and the state/ethnic majority is under consideration by many experts as representing undoubtedly a relevant political issue. The researches conducted in this area usually seek to answer that under what conditions, by which political and legal-institutional means conflict can be resolved, the peace can be kept, and how the interethnic coexistence and development can be maintained. In contrast the situation and efforts of politically less relevant minorities attract less attention. Often they have different

social features with uncertain communal boundaries, and are thus exposed to a higher risk of assimilation. In their cases even the basic theoretical assumption can be challenged, so whether their situation can obviously be characterized as socially disadvantageous and unequal. At the same time the representatives of such communities still articulate their common demands aiming the preservation and further development of the own minority features, which may hardly endanger the territorial integrity of the state. There is no doubt that Hungary and its minorities can be ranked into this latter category. Whereas the conflict plays a central role, the mainstream researches in ethnic issues do not prefer to examine the way in which the desired legal and institutional arrangements, poliethnic and consociational models are established, the different actors participating in the political process, their main features, interests and influences, and last but not least their impact on the final decisions. In sum the policy style of minority policy shall be also analyzed.

The thesis aims to further specify the decision-making process that is usually described as having bipolar nature (minority-majority). In contrast it examines such complex and not necessarily zero-sum processes that involve many actors with different interests and in which they formulate many and

reconcilable policy goals, and moreover the actors are not stable and homogenous entities. It states that their objectives can not simply be symbolic but may involve concrete questions of power relations, representation, financing and material resources.

The other main reason for writing the thesis was a contradiction concerning the minority policy in Hungary, which has not been revealed by the literature yet. Namely, with regard to the minority protection after the political change of system there are simultaneously the highly appreciating domestic and international perception when compared to the policies and legal solutions of other East Central European countries and the recognition arguing that the minority interests have not been fully realized, and sometimes even their participation may be limited in the decision-making processes affecting their lives. The conducted research aims to answer whether the contrast above can obviously be identified, and taking into account the policy development to specify the policy process in one of the most important areas of the Hungarian minority policy. It thus both analyses the policy proposals formulated *ex ante* and the connections of *ex post* implementation. It aims to reveal the possible reasons for the situation, the background of policy-making, the circumstances

of processes of political decision-making, and to explain how the aforementioned contradiction could be evolved.

Its key question on one hand is that how the interests, conceptions and compromises of different actors are reflected in certain legal provisions of the Minority Act. On the other hand its objective is to analyze the realization of the democratic requirement of effective civil/minority participation. Therefore it assesses the minorities exceptional among the organized social interest groups in a democratic political system. It does so, because unlike the others their demands affect power and representative relations, more precisely the establishment of own decision-making and their involvement in the relevant process of policy-making. The case study primarily concentrates on that to what extent the codification of new legal and institutional framework embodying an exemplary model of minority protection reflects the domestic ethnic conditions, basic minority interests and needs, and to what extent it harmonizes with minority goals. To put it into another question: can the situation of the so-called state capture by minorities as organized social interest groups evolve in certain circumstances? Can and how the minority demands are fully realized, that may be safeguard for the community future, even at the expense of other actors and

areas, in the nature of limited resources and different theoretical assumptions? Or is it inherently necessary to seek compromises in minority policy, or should even other concerns opposing minority ideas be more determinative? Where can the limits of enforcing special minority interests be drawn? In sum, how can the analyzed area of minority policy be characterized: as a rule of state centralism, governmental or party initiations and proposals with neglecting minority ideas? Or is it much more complex, allowing both bottom-up and top-down initiations and special compromises? What is the role of experts, and potential foreign actors, like Hungarian minority representatives and international organizations in domestic law-making?

After the outline of both theoretical and international framework, and statistical, geographical, sociological, and historical background being relevant from the so-called political opportunity structure (Herbert Kitschelt), the detailed presentation, the introduction and analysis of decision-making processes follow in separate chapters but in the same way. Both chapters examine the contributing actors, their relations, standpoints and their futures. These chapters themselves offer opportunity for certain level of comparison in order to indentify both the distinct characteristics and similarities of the

two political processes examined. Its objective is certainly not to give a historical or a legal overview of the subject, which is evidenced by the fact that it does not analyze the parliamentary stage from 1992-1993 in a very detailed way because it produced only few developments. The policy content furthermore does not indicate a legal approach, so it does not aim to clarify the rights and autonomy of the minorities in Hungary, and their potential shortcomings and benefits. The case study primarily concentrates on, however, the political decision-making, and the way how the decisions were prepared by different actors having distinct theoretical and practical ideas and obviously different political weights and abilities to enforce their interests. The research criteria are applied to both cases in the same way, adding that the actors and the negotiated issues changed to a relevant degree in the course of time.

The relevant literature has not introduced and analyzed the decision-making processes related the Minority Act and its overall amendment with policy nature yet. The works published to present have studied the political events, in broad contours and in different detail, depending on the available materials, but unfortunately sometimes with some inaccuracies. Regarding the subject and methodology of the

literature it can be classified as follows: the lineal description of historical events, the analysis of legal regulations, and legal problems related to the formulation and the draft proposals. Increasing number of especially legal articles may form another group, which deal with the system of minority self-governments, their special elections, and the related abuses, and last but not least the parliamentary representation of the minorities. Besides a chronological description the different studies have not undertaken to examine the background and nature of decisions, the relationships of the informal politics.

2. Methodology

Regarding its methodology the conducted research is a qualitative analysis of data, and it is also based on the historical and comparative analysis of existing data, such as relevant interviews, newspaper articles, statistics, and archival materials. The latter is complemented by deep structure interviews with some key policy actors. During the research I focused on the relevant issues regulated by the Minority Act as listed below:

- the determination of the legal subjects;

- the freedom to choose an identity vs. the problem of registering persons with minority affiliation;
- the types of minority self-governments, and their elections;
- the rights and competences of minority self-governments;
- the financial management and finance of minority self-governments and the minority sector.

3. Main findings of the thesis

After identifying the most relevant issues of the two examined laws, I have come to the conclusion that it is undoubtedly that the Hungarian Parliament has adopted progressive and extensive regulations in international comparative terms and in several cases the representation of minority interests proved to be successful (e. g. the lengthy refusal of registration), but in other cases they could not be fully realized (e. g. parliamentary representation). In reaching the concerning decisions other interests and aspects played important role, too, that proved to be much more influential as opposed to the minorities. As a result of other actors' participation and impact, in the nature of different interests,

expectations, tasks, and constraints the realization of minority interests can be considered as low or medium even in the relatively homogenous and centralized Hungary. To this finding I should add that especially in the process between 1997 and 2005 there was no single minority efforts in every aspect due to different needs arising from the different social circumstances, and the changing nature of the political decision-making.

It is well-known that in the East Central European region around the time of political change of system several obstacles arose on the way to the realization of minority demands. Among those the restrictive nation-state characterized by the majoritarian nationalism is often mentioned. This feature can hardly be stated for Hungary because although the parliamentary representation of minorities has not been realized for two decades, anti-minority political forces could have only marginal representation in the Hungarian Parliament and the majority of the population did not oppose the Minority Act, too. But I argue that in minority policy affected by the different circumstances of the political opportunity structure not only the norms, the competing ideological and theoretical assumptions, but even the concrete political interest from everyday life shall be also examined.

These involve crucial issues of power and representative relations, financial resources, and rivalry among the different actors. For the aforementioned contradiction of Hungarian minority policy style there has been only one general but disputed explanation in the relevant literature which emphasizes the role of foreign considerations, namely the purpose to set an example abroad for the Hungarian minority communities. After conducting the basic research in this field the author has adopted a new standpoint in that debate. Related to these questions, the main results and findings are, as follows:

- The analysis identifies the main actors, and assesses their participation and represented interests and proposals from the point of view of final decisions.
- It reveals those political processes that resulted in the 1987-1988 agenda-setting of the Minority Act and have not been examined by the relevant literature yet. It aims to justify that certainly it was not the domestic minority pressure that played the most significant role in transforming the issue into a political problem.
- It argues that in both examined processes the earlier neglected, pre-parliamentary phases should be preliminarily analyzed instead of the official

parliamentary disputes from 1992-1993 and 2004-2005. These stages of formulation involved many actors who decided the majority of the most relevant issues. The impact of parliamentary parties proved to be weaker in the former but was more determinative in the latter case.

- The author adopts a new standpoint in that professional debate that is about the main features of the Hungarian minority policy after the political change of system and about its relation with the kin-state policy towards the Hungarian minorities living in the neighbouring countries. It shows that in both significant phases before the 1993 adoption (agenda-setting, formulation) the foreign aspect was undoubtedly present but its presence of a rather communicational-rhetoric nature can not be exaggerated. It reveals the fact that almost exclusively domestic considerations could be observed by the majority of the contributing actors, who were not really motivated by the purpose to set an example abroad. As it can be seen, the provisions of the law were results of lengthy and difficult preparation involving many actors, concepts, interests, and circumstances, and having special and sensitive

political and legal compromises. To top it all, although they could be characterized as regulatory processes, they did not lack symbolic, redistributive, and material elements and consequences, too. It must be taken into account that the law coming into force should function in Hungary, almost exclusively in domestic circumstances, involving domestic actors and resources. The law has established new institutional arrangements, specified tasks and competences for the Parliament, government, administration, local and minority self-governments. Moreover the relevant regulations have been supplemented by financial resources and this made the confrontations and compromises in the framing almost necessary.

- It specifies that widespread interpretation in the literature related to the pre-1993 formulation that emphasizes exclusively the competing conceptions of the so-called “nation-state liberalism” and the victorious “autonomist” approaches. It proves that the former standpoint represented especially by the Ministry of Justice was much more influential, and both the draft laws and the final Act can be classified as having mixed or double nature.

- It aims to reveal that in the formulation of the model of elected minority self-governments the internal problems of the transforming minority civil sector, mainly the legitimacy, and the relationship with the government agencies had crucial role
- It argues that much more attention should be paid on those actors and interests that had significant impact on the final text as a result of their serious internal political and financial concerns. So the both competences, the financial resources of the local governments and the general economic-financial situation of Hungary shall be also taken into account. It was no coincidence that the minorities later made serious efforts to change just those provisions as a result of few substantive competences and resources.
- Finally, utilizing the experiences and results of the research it takes position on certain contemporary issues, and proposes measures to solve some institutional deficiencies including the lack of sectoral reconciliation.

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