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**The Nationality Question and Constitutional History in Austria in the
period of 1848-1867**

entitled to the Ph.D. dissertation

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I. PRELIMINARIES OF THE RESEARCH

BACKGROUND OF THE ANALYSIS

The political and social development of the 20th century is significantly defined by the nationality and minority problems and the “solutions” for these questions. Especially the history and present of the actual century and the history of the former centuries are characterized by genocide, ethnic cleansing and national rioting. The roots of the conflicts and problems of our age may be led back even to nationalism revived in the last century. The revolution of 1848 was a major milestone in the establishment and improvement of the national consciousness of the people living in the area of the Habsburg Monarchy. The first modern and democratic legitimized national assembly of the then Austria made an attempt to harmonize and arrange the differences in interest among certain nationalities, historical provinces and the state.

As it is already known, it resulted in vain, but at least these representatives of the people stroke a blow for this affair, and tried to find solution of a certain kind to this problem that satisfies with all the participants. Nevertheless, not just the greatly diverse interests of the certain representatives had to be taken into consideration, but there were conservative and reactionary opponents of the parliament in the Schwarzenberg Government, who rejected democratically elected popular representation only because of reasons of principle, and represented a completely different political philosophy than the predominant majority of the Members of the Parliament.

In my dissertation I make an attempt to examine the constitutional history and policy toward national minorities in the period between 1848 and 1867, herein the nationality conception of the Kremsier Parliament. In addition to this, I try to analyze the reasons that led to the fall of this parliament and clear up the question whether the representatives of Kremsier succeeded in setting up a predicting model.

For the elaboration of this range of subjects, comprehensive and extended study of sources was needed. Hereby I would like to express my thanks to the experts of the Austrian National Library and also to the colleagues of the Institute for Eastern and South-Eastern European Research, University of Vienna for their helpfulness, ac etiam to Prof. Dr. Horst Haselsteiner and to Prof. Dr. Ferenc Szávai for their technical assistance and for their excellent observations.

The demonstration of the era is based on Hungarian and mostly German-speaking scientific literature, supplemented by the utilization of so far only partially researched and published archivalia. I used Austrian library materials and archivalia that are completed with Hungarian researches of library for the writing of my dissertation.

It is generally said that the work of the national assembly of Kremsier can be traced well in the used documents; it is well documented, like the so called “Reichstagprotokolle”, and the so called “Protokolle des Verfassungsausschusses” that can be found in printed forms: - „Verhandlungen des österreichischen Reichstages nach der stenographischen Aufnahme”, (5 volumes Wien),

- Alfred Fischel: ”Protokolle des Verfassungsausschusses über die Grundrechte” (Wien 1912),

- Anton Springer: ”Protokolle des Verfassungsausschusses 1848/1849 (Leipzig 1885).

I found data with biography relevance only in connection with the most famous representative (F. Palacky). I did not find any literature or source-material about the other representative; including about Kajetan Mayer, who was one of the most significant personality of Kremsier.

I discovered detailed materials about the members of the then government, especially about Fürst Felix von Schwarzenberg. My thesis focuses on the analysis and answering of the following question complex: - To what extent does the draft of Kremsier serve as a solution for the national, social and political problems? It is said more and more often: “The national assembly of Kremsier was the last – or at least one of the last – possibility for saving the Monarchy.” It is difficult to give a satisfactory answer, since it is known that this draft constitution has not been put into practice. Robert A. Kan, being the great expert of the question, came to the conclusion that the “Kreiseinteilung”, written in Kremsier, would offer a possibility of living together, utilizable for the people of the Monarchy. It is only the question that whether this draft constitution would work well in the everyday political life.

II. APPLIED METHODS

ANALYSIS OF THE NATIONALITY CONCEPTION OF THE KREMSIER PARLIAMENT AND THE AUSTRIAN CONSTITUTION UNTIL 1867

It is a promising, but also a difficult undertaking to present the constitutional regulation of the nationality question in Austria from 1848 to 1867. It is tempting, interesting, and significant because the nationality question meant exactly the main problem considering the remaining of the state in the multinational Habsburg Monarchy. Posing the question seems hard, various, and partly controversial, because in the period starting from the year of revolution till the time of compromise, several draft constitution and bill came into force in which different starting positions were expressed.

The starting situation in 1848

The general motivations of the civil-democratic movements were emancipation and political co-operation. Claims were drafted according to the constitutional rights. The compliance of the constitution was the most important. The demand to acknowledge the language and political rights of the non German- and Hungarian-born people appeared in relation to these claims. The self-government and nation-political autonomy were in the centre of the particular claims and programs. At the same time it raised the problem of the Habsburg Empire's reason for the existence. The question about the role of the Slavic people in the Monarchy was raised only marginally.

Mainly the latter question was not new, yet it gained modern topicality only in the year of the revolution. In his work, which was published in 1836/37, Jan Kollár spoke about the "literary reciprocity between the various tribes and dialects of the Slavic nation". By this Kollár laid down the fundamental principle of the cultural and linguistic cooperation of the Slavic people and of the political cooperation. In Vienna, in the imperial capital- and country town, Slavic people held meetings several times already before 1848.¹ People met at the balls, concerts, performances and poetry recital. The frequency of these meetings was increased after the events occurring in Vienna and Pest. The particular delegations of the Slavic

¹ Robert A. Kann, *Das Nationalitätenproblem der Habsburgermonarchie. Geschichte und Ideengehalt der nationalen Bestrebungen vom Vormärz bis zur Auflösung des Reiches im Jahre 1918*, 2. kötet, (Graz/Köln 1964); Holm Sundhausen, *Der Einfluss der Herderschen Ideen auf die Nationsbildung bei den Völkern der Habsburgermonarchie*, (München 1973). 129 ff.

nationalities arriving in Vienna lend a special political emphasis on the appointment held in the end of March and in the beginning of April. Their intention, according to which the Slavic people living in the Habsburg Empire wishes to gather and discuss the questions referring to them on their own meetings, was formulated at the end of April in Leopoldstadt at the Sperl Restaurant.

The starting impulse is given later, by the Croatian events at the end of 1848. In one his article, Ivan Kukuljevic, historian, writer and politician, supports a conference that calls together all the Slavic people living in the Monarchy with the purpose of arranging the common problems. This proposal received a great enthusiasm and finally the “Slavic congress” was assembled in the capital city of Bohemia, in Prague at the end of May.

The Czech politician and historian, Frantisek Palacky played the dominant role at this congress, who has already arisen actively for the state-political and ideological change of view about the middle of April. For the invitation of the Frankfurt Parliament to take part in the Paulskirche Meetings, he answered in his famous and frequently quoted letter of renunciation, written in the name of the Czech representatives, in 11 April 1848, the following: “As the Austrian imperial state will probably not exist for long, it is the interest of Europe and the humanity to perceive and save it.”²

The cancelling of the participation is accompanied by the affirmation of the Austro-Hungarian Monarchy’s survival and the formulation of the so called “austroslavism” program. Palacky firmly believed that the smaller Slavic nations, under the Monarchy’s protection would be able to provide their existence as soon as possible, against the danger of the German and the Russian: of course in a Monarchy that in reference to the “ethnic federalism”, should be reformed into a federative, federal and nationality state. In this spirit the program remained, which was accepted by the Prague Slavic Congress in the beginning of June. Though after the suppress of the Whitsun riot in the Czech capital, the Slavic congress dissolved, but certain parts of their nationality, state-political claims were transferred to the relevant wording of the Draft Constitution of Kremsier of 1849³.

Constitutions in the period between 1848 and 1860

² Idézve: Frantisek Palacky „Politisches Vermächtnis”, In: Biographisches Lexikon zur Geschichte Südosteuropas, Hrsg: Mathias Bernath und Felix Schroeder, 3 Bd., (München 1979) 371.

³ Richard G. Plaschka, Von Palacky bis Pekar, (Wien-Köln 1955); H. Haselsteiner, Das Nationalitätenkonzept des Reichstages von Kremsier und der österreichischn Verfassungen bis 1867. In: Friedenssicherung in Südosteuropa. Föderationsprojekte und Allianzen seit dem Beginn der nationalen Eigenstaatlichkeit, Hrsg: M. Bernath, K. Nehring (Neuried 1985). 51-56.

The “Czech Charta”

In the meeting, held in Wenzelsbad, Prague by the German and Czech citizens, the liberal-constitutional and national claims were formed two or four days before the revolutions in Vienna and Pest. This program was passed to the court in Vienna by a private delegation. Emperor Ferdinand responded to these Czech nation-political claims, listed in this program, by the “Czech Charta” issued 8 April. The essence of this new regulation: “The Czech nationality, on the footing of equality of the Czech and German language has to be considered as a basic principle in every branch of public administration and education.” It follows from this equal legal status that from now on, only bilingual individuals can be employed in the public administration. Besides they announced the establishment of a private central office for the Czech – but not for the Moravian and the Silesian – people.

The “Czech Charta” passed the claim of the union of Czech provinces (Bohemia, Moravia and Silesia) formed at the Wenzelsbad meeting, was passed by the “Czech Charta” to the competence of the assembled Parliament. Ferdinand widely fulfilled the Czech wishes with this step. First of all the emancipation of the Czech language in the public administration and education was announced. Despite this remained just in Bohemia, a continuously awkward question and a problematic matter until the end of Monarchy. But Charta remained only a paper form: the constitution, accepted just three weeks later, fully withdrew the linguistic orders of the “Czech Charta”⁴.

The “Pillersdorf Constitution” of 25 April, 1848

Forestalling the preferring of the civil-liberal claims, the “Pillesdorf Constitution” was voted on 25 April, 1848, as the unilateral legal procedure of the sovereign. The Austrian provinces of the Habsburgs must compose the “indestructible constitutional monarchy...” (1st section), possessing a relatively limited provincial autonomy. The 4th section of the constitution was relevant for the nationalities: “We guarantee the inviolability of all nations’ nationality and language.” We have to underline in this context that in the first Austrian constitution to be analyzed, not only the linguistic rights of the people of not German nationality were posed, but also the fact that they were due to safety and hereby the support of

⁴ Walter Friedrich: *Österreichische Verfassung und Verwaltungsgeschichte von 1500-1955.*, Hrsg. Adam Wandruszka, (Wien-Graz-Köln) 152ff.; Gerald Stourzh, *Die Gleichberechtigung der Nationalitäten und die österreichische Dezember-Verfassung von 1867*, In: *Der österreichisch-ungarische Ausgleich von 1867. Vorgeschichte und Wirkungen*, Hrsg. Peter Berger, (Wien-München 1967) 188.,

their “nationality”. Whatever view the legislative wanted to represent, we have to point out that the nationality legislation exceeded the question of language protection in the major section of the monarchy from the beginning. Similarly to the “Czech Charta”, the “Pillersdorf Constitution” could not avoid its fate: it has never taken effect⁵.

III. RESULTS OF THE DISSERTATION

KREMSIER DRAFT CONSTITUTION, “CONSTITUTIONAL ATTEMPTS” OF THE PERIOD FROM MARCH 1849 TO 1867

After the Viennese riots in May and the so called “Sturmpetition of 15, May, 1848” Emperor Ferdinand thought that he is forced to empower the already declared parliament to discuss the constitution. The “Pillersdorf draft” served as a basis for the debate about the constitution taking place in the Parliament. Hereby the Parliament was classified to be a “constituent Parliament”. This Parliament assembled in July 8, 1848, and designated the “Constitutional Committee” in July 31. Because of the further Viennese riots, the constituent assembly was placed to Kremsier, to the summer residence of the Archbishop of Olmutz. It was not an easy matter without a doubt for the representatives to work out an enduring draft constitution. All the more so because of the Parliament’s composition that is heterogeneous from several point of view – its national, religious, economic, social and cultural multi-colour being – it seems rather difficult otherwise problematic to work out the proposal that is unified and first of all confirmed by every group. It meant further drawback that the opposing starting positions had to be taken into consideration: in one respect the historical right, on the other the national claims and reflection of national law. One side supported centralism – while the other supported federalism, in numerous manifestations: from the eternal provincial federalism to the concept of the ethnic federalism that concept consciously wanted to differ from the historical provincial boundaries.

Despite all these difficulties and regardless the sometimes opinions strongly dissenting from one another, the compromise was born, a consensus established in accordance with the federative solution. This conventional solution that is really owing to the ideas of the German-Moravian representative, Kajetan Mayer, was encouraged without a doubt by the more and more perceptible pressure of the absolutism, reviving after the deposition of Francis Joseph.

⁵ Walter, *Österreichische Verfassungs- und Verwaltungsgeschichte*, 147-150. Edmund Bernatzik, *Die österreichische Verfassungsgesetze*, (Wien, 1911) 102-109.

In terms of the given topics, three law fragments are significant. The equal rights of the tribes and the languages used in every province regulated in section 21, the establishment of districts in the multi-nationality provinces was regulated in section 3 and finally the composition and competence of the Chambers were regulated in section 99 of the Kremsier Constitution. Section 21 defines:

“All the tribes of the empire are equal. Each tribe has its inviolable right to preserve and foster its nationality, with especial regard to its language.

The state guarantees the equal rights of all the languages used in the provinces, at school, official and public life.”

In connection with the relevant provisions of the Draft of Kremsier, it has to be mentioned that in the case of legal regulation of the nationality question, it was not only about a linguistic law, but the representatives consciously included the nationalities in the form of the law. These legally circumscribed, promised equal rights at school, at the office and in public life, had to be consequently guaranteed.

The establishment of districts is laid down in section 3:

“Galicia and Lodomeria along with Krakow were divided into 10, Bohemia was divided into 9, Moravia was divided into 4, Austria under Enns was divided into 3, Tirol and Voralberg were divided into 3 (Deuchtirol, Welschtirol and Voralberg) and Styria was divided into 2 districts. The allocation of these districts was firmed in an imperial law with the extensive consideration of the nationalities. Every remaining provinces represents a single district.”

Finally, in the section that made an emphasis on the strong and constitutive element of the federative views in the Draft of Kremsier regarding the institution of the provincial chambers we can read the following:

“The constitution of the provincial chambers:

1. 6 representatives from each imperial province who are chosen by the provincial parliament/ assembly;
2. Each representative chosen by a district assembly that includes 2 or more districts

The draft of Kremsier intended the formation of an imperial court in order to put the constitutional decisions into force both in the judicial and authority spheres. In accordance with the separation of the branches of state power, further guarantee had to be included, also for the national and language political regulations.

The identity of views of a certain kind may be noticed given by historians and constitutional lawyers in the positive estimation of the draft of Kremsier of 1848. The main point of the

expression of opinion's criterion is given for the balanced manifestations, the significance of the compromise tackled voluntarily and the frequently mentioned "last chance" Austria. Walter Friedrich's conclusion is the typical example for the significance attached to the draft of constitution: "The draft of Kremsier is the only great political monument of the common intention that created the masses through the representatives in the imperial Austria."⁶

The role of the ideas of Kremsier in connection to the legal regulation of the nationality question – formed by means of the constitution in December, 1867 – is referred rightly. Nevertheless, we have to make the judgement of the draft relative, as it is valued as the faultiness of the regulation that the entire empire of the Hungarian crown had to be disregarded, because of the situation established in the Habsburg Monarchy in the beginning of 1849.

A second "objection": The constitutional committee of the parliament finished its work in March 4, 1849. On the same day, the Parliament was dissolved due to the hand-written letter of the emperor, as it had not completed the sovereign's expectations. In March 7, when the representatives in Kremsier wanted to assemble in an additional meeting, the entrances of the Parliament's halls were closed by armed forces. So the concept of Kremsier with its comprehensive regulation of the nationality and linguistic question remain only a draft⁷.

The "imposed constitution" of 4, March, 1849 and the New Year's Eve Patent

The preparations for the dissolution of the Kremsier Parliament and the initiations for the publishing of the new constitution were already started in the beginning of 1849. The mistrusts concerning the constitutional-liberal efforts were asserted not besides by the displays, sometimes seeming radical for Franz Joseph and the court circles in the catalog of the basic principles of the Draft of Kremsier. Among other things we can read the following in the basic rights: "The origin of every state power can be found in the people." The reversal as defined by constitutional law was helped to a high degree by the Hungarian political successes.

The new, "imposed constitution" was published simultaneously with the declaration of the Parliament's dissolution in 1849, 4 March. In section 2, including the Hungarian provinces, the "free, independent, unified and indestructible Austrian constant monarchy" was

⁶ Ebd. 152. /Walter, Österreichische Verfassungsgeschichte/

⁷ Ebd. 152-164.; Felix Ermacora, Österreichischer Föderalismus. (Wien 1976) 29 ff.

established. Considering the legal status of the nationalities, the wording of Kremsier in section 5, can be read only by syntactic change:

“All tribes are equal and each tribe has its inviolable right to preserve and use its nationality and language.”⁸

Though, this false constitutionalism that was in respect to the rights of nationalities, did not last for long. The repealing of the constitution of March 1849, by the so called New Year’s Eve patent in December 3, 1851, was due to the increased influence of Karl Freiherr von Kübeck who was appointed to the chairman of the imperial council in December, 1850.

By the “fundamental principles ordained for the institutions of the crown lands and Austrian imperial state” an outright absolutist ruling form gained justification that was based only on the unrestricted power of the sovereign. The actual fundamental principle of the constitution was the main authority of the sovereign. Parallel with this, the repression and debarring of the lands’ autonomies can be observed.

This is expressed in the 1st point of the fundamental principles:

“1. The lands unified with the Austrian imperial state by early historical and new legal title, constitute the unbreakable constituents of the Austrian Imperial Monarchy.”

The administrative system connected to the name of Alexander Freiherr von Bach, Interior Minister, in terms of the new constitution, meant the iron corset of absolutism. There was not such an era, in which the close intergrowth of the constitutional and administrative law would be expressed such explicitly, as the period between 1851 and 1860. In this system, only the military defeats, the continuous financial difficulties and therefore produced reform urging internal claims brought changes.⁹

”Constitutional attempts” era of the period between 1860 and 1867

The main motivation of the “constitutional attempts” in the first half of the 1960s was to save the idea of global statehood and the strong position of the sovereign despite all the concessions made for the federalism and provincial autonomy and for the benefit of constitutionalism. Behind these attempts there was an intention to consolidate the dictatorial state and to stabilize the internal basis of the Habsburg great power. Considering overall, all

⁸ Stourzh, Gleichberechtigung, 194f.; Joseph Redlich, Das österreichische Staats- und Reichsproblem, 2. kötet, (Leipzig 1920/26) 1. kötet, 392 f.

⁹ Walter, Österreichische Verfassung- und Verwaltungsgeschichte, 185-219.; Fritz Fellner, Das „Februarpatent“ von 1861. Entstehung und Bedeutung, In: Mitteilungen des Instituts für Österreichische Geschichtsforschung. (63) 1955.

the three initiations – the October Diploma of 1860, the February Patent of 1861 and finally the Patent suspending the February Patent of 1865 – can be described as failures. No matter how various the prevailing preliminaries of the solution attempts were, especially the claims of the certain tribes, finally it was the Hungarian question that proved to be standard in the long term in terms of the durability of all the solution possibilities.

The “October Diploma” that was published 20, October 1860, was the result of the collaboration of the Hungarian ultraconservatives and the Czech feudal nobility. In paragraph II and III about the competence-division among the provincial parliaments of the central Parliament and the Habsburg Monarchy essentially understood as a unit, we can read the following:

“II. All the subjects of the legislation that refer to the rights, duties and interests, which are common in the kingdom and in all provinces, ... have to discussed in the imperial Parliament and with the imperial Parliament and have to proceed according to the constitution in the matter with its collaboration...

III. In all the other subjects of the legislation that are not included in the former points, have to proceed in the competent provincial parliaments and with the provincial parliaments according to the constitution.”

The conception of the conservative-feudal federalism with the unambiguous situation of the historical provincial units, proved to ne just a short-distance, makeshift solution. Neither the “February patent” was much lasting that was published to concretize the October Diploma a few weeks later in 1861, February 26, and it can rather be called centralistic. The constitution document, worked out by the leading of Anton Ritter von Schmerling, with its own bureaucratic centralism and with its seemingly federalist elements, empowered the imperial parliament with general competence and this counsel has to unite the Austrian province in the so called “narrower imperial parliament”:

“According to these, attached to the imperial parliament ... all the subjects of legislation that are not explicitly, according to the provincial order, appropriated for the provincial parliaments, represented in certain, narrower imperial parliaments.”

With the patent of 20, September, 1865, suspending the February patent, Count Richard Belcredi finally made an attempt to approach again to the rather federative ideas of the October Diploma, turning from the Schmerling centralism, and to reach a seemingly important compromise with Hungary. The sovereign’s starting position and his expectations emerge clearly from the suspending patent:

“The preservation of the monarchy’s state of power with the common discussion of the main state duties and the maintenance of the empire’s state with respect to the variety and historical law development of its constituents – is the cardinal idea that was expressed in the manifesto, published October 20, 1860, and what will always lead Me, being in my faithful dependants’ interest.”¹⁰

But this initiation of solution was proved to be transitional. The idea of statehood overall and the common conduction of the affairs of state, the verbal declaration of federative constituents did not succeed to be asserted opposite to the permanent resistance of the Hungarian liberals and their dualist solution idea. In the beginning of the 1960s, several reasons were raised for the failure of the “constitutional attempts”. Several demonstrative examples among these:

- First, we have to mention the alternate presence and absence in the “widened parliament” competent in terms of the entire state and in the “narrower imperial parliament” competent for the Austrian provinces. The Hungarians, Croats and Italians did not appear in the parliament. Although, in 1863, the Transylvanians sent representatives to the parliament, in contradistinction to this, in the same year, the Czechs and Poles quitted. The Czechs, who stayed away from the austroslavism earlier, did this with a heavy heart.

“... The interest of the smaller folks “wandering” among the Russian and Germanic folk colossus is ... to stay in the Austrian state, and protect themselves and keep their nationality in this state and with the help of this state.”¹¹

- Besides, we have to mention the always existing financial and budgetary difficulties despite all our effort;
- The defeats of foreign affairs, especially in the Germanic question, in connection with the sharpened tension between the Habsburg state and Prussia.
- The hesitation between the centralism, federalism and the modestly hidden dualist initiations of solution expressed in the various constitution-concepts was the sign of uncertainty and weakness among others.
- The continually explicitly appearing compromise with Hungary since 1865. Dualism and the extensive consideration of the Hungarians’ ideas as defined by constitutional law appeared to be the most powerful constituent. The condition of non-Hungarians and people of non-German nationality could be postponed compared to this.

¹⁰ Stourzh, Gleichberechtigung, 198-212.; Bernatzik, Verfassungsgesetze, 426ff.

¹¹ Idézet Frantisek Palacky: „Politisches Vermächtnis” Biographisches Lexikon zur Geschichte Südosteuropas, Hrsg: Mathias Bernath und Felix Schroeder, 3. kötet (München 1979), 383f.

All these led to the establishment of the “Austro-Hungarian compromise” in 1867, as a result of the heavy and permanent negotiations taking place between the sovereign, whom the defeat against the Prussians affected rather seriously, and the Hungarian Parliament. Dualism won and the compromise recognized Hungary’s considerable independence. The compromise had to be accepted in the “remaining kingdoms and provinces too” and in “Cisleithania” and in “Austria” as well as the forms of public law of a constitution published some day has to be adopted.

The regulation of the nationality question by means of the constitution of 1867 December

Regarding the formal judgment of the constitution of December it can be generally told that the five constitutional laws that were published in December 21, 1867, are focused on multifold, partly contradictory codification. Firstly we have to mention the differences of the Hungarian compromise law’s wording that later also led to political clashes. As a closure of this dissertation those dispositions are examined that referred to the nationalities and remained valid for the people living in the areas over the Lajta until the end of dual monarchy. In terms of the future status of the nationalities and the language, the paragraph XIX of the “Fundamental Law Concerning the General Rights of Citizens” is the relevant. Because of the significance of the law passage, here it is the whole quotation.

“All the tribes of the state are equal and each tribe has the inviolable right to preserve and use its nationality and language. The equality of the languages used in the provinces is acknowledged by the state at schools, offices and in the public life. In those provinces where more tribes live, educational institutions have to be developed to give the necessary instruments for the instruction in their own languages, without forcing them to acquire a second provincial language.”¹²

During the interpretation of the text it emerges that the first section of the paragraph XIX adopted the “Forced March Constitution” literally and hereby the Draft of Kremsier of 1849 too. The adoption of the wording is owed to the German-Moravian lawyer, Dr. Eduard Sturm who is making record for the constitutional committee of the imperial parliament. The second section is the literal quotation of the draft of Kremsier that was suggested by the Slovenian representative and lawyer in Laibach, Dr. Lovro Toman.

¹² Walter, *Österreichische Verfassung – und Verwaltungsgeschichte*, 219-225.

The content of the third section that excludes the constraint of a second provincial language acquisition in the bilingual provinces, was the precondition for voting paragraph XIX by the German-Czech and German-Moravian representatives. This assumption was aimed against the so called “constraint-language law”: in January 16, 1866, a law was sanctioned in the ministry led by Belcredi that introduced the obligatory teaching of German and Czech languages at every high school in Bohemia. As it is known, the language question remained a subject of conflicts for a long time in Bohemia. After the year of publishing the December constitution, the debate about the expressions, “provincial language” and “language used in provinces” applied in both – third and second – sections of paragraph XIX, flared up. For the Czechs both – Czech and German – language was a “language used in the provinces” in the entire Bohemia. Whereas, the Germans wanted this to be referred only the districts. Mentioning terminological difference they claimed that the equality expressed in the second section would not relate to the absolutely German areas of Bohemia. The court as provided for by constitutional law in conformity with constitutionality, according to paragraph I and III of the “fundamental law concerning the enrolment of the court of authority and as provided for by constitutional law” had to deal with these and other similarly important questions in the last century of Austro-Hungarian Monarchy’s existence. The foundation of this court was based on the ideas that were expressed by the representatives in Kremsier, twenty years ago.

So we can clearly and explicitly notice a turn from the orders of the Constitution of Kremsier in 1849 to the disposition of the constitution of December in 1867.

The orders about the equality of the nationalities and their languages were adopted, nevertheless it has to emphasized one more time, that it is not just about simply regulation of linguistic law. The institution of the imperial court was also adopted, whose judicial custom was additionally complemented with the pertinent decision of the court as provided for by constitutional law, established in 1872.

On the other hand, the districts established according to the nation-political aspects, do not appear in the constitution of December as the second gremium of legislation, the provincial Chambers. The fact that after the compromise not every nation agreed with the created solution, is reinforced by the anxieties of Frantisek Palacky, published in 1872:

“Unfortunately the hope of the permanent existence of the Austrian state was vanished for me too, ... because both the Germans and Hungarians were let to possess power and establish a one-sided racial despotism in the monarchy.”¹³

The opinion of the Czech politician – despite all the positive orders of the constitution of December – nearly 50 years after wording, due to the pushing of the lost war – the nation-political solution regarding its permanence, was verified. The self-government, the self-government in terms of the nation, proved to be the most significant moving force of the Eastern-Sothern revival in 1918/1919; more significant than the experienced constitutional, federative in the beginning and than the idea and conception of the union above the nations.

3.1. STRUCTURE AND MAIN THESIS OF THE DISSERTATION¹⁴

3.2. CONCLUSION

COMPLEMENTARY DEFINITIONS FOR THE COMPREHENSION OF THE CONSTITUTIONAL ATTEMPTS OF THE DEMONSTRATED ERA; NATION, NATIONALITY, FOLK, TRIBE AND NATIONAL CONNECTION

„Jede Zeit hat ihre bewegenden Fragen. Die Gegenwart wird in einigen Ländern von der Frage der Nationalität beherrscht. Diese Frage wird noch lange acut bleiben, bis sie von der socialen abgelöst wird, deren Zeichen eine täglich mehr aufsteigende Bewegung nimmt. Doch bisher steht immer noch die nationale im Zenith.” /Wenzel Frind/

„Every period had its own significant question. The present is determined by the question of nationality in certain countries. This question will remain acute for a long time, till it's not taken over from social questions, which signs increase from day to day. However it is still the nationality standing on the zenith.” /Wenzel Frind/

My thesis, like every work dealing with the nationality problem basically is needed a trivial basis of a certain kind, the form of consens in connection with the use of theoretical concepts like folk and nation. Essentially the non-uniform nature of the factors meant a scope of problem in the Austro-Hungarian Monarchy, which also characterized the originally Austrian nationality question. So, three sharply different elements could be differentiated in the contemporary Austria. The historical unit of various ethnic groups furthermore the

¹³ F. Palacky, „Politisches Vermächtnis”, 392.

¹⁴ see in the Table of Contents of the Dissertation on page 3

kingdoms and provinces differentiated the central power, while comparing the claims of ethnicity to the claims of the other two groups, they became more significant and radical.¹⁵

During the period starting from the development of national idea until the end of Austro-Hungarian Monarchy there were hardly a historian or a scientist of different origin, searching the national problem, who did not deal with the basic questions somehow even with the help of the more or less successful individual definition of the terms of use or the previous attempts to determine the phenomenon of nation and nationality.

Also this work can not go short of common conceptualization, however the emphasis from the setting up of incontrovertible definitions transfers to the cognition of generally recognized historical development processes, like the role played by the passwords of popular sovereignty and equality at the determining of the definition of nation, or rather making conscious the tendencies which is observable in the scientific interpretation of the 19th century folk and nation terms. Nation and nationality are the products of social development and so they can not be determined without accepting the territorial and chronological frames in issue; with other words, one of the experiences made for determining the nation and nationality in the 19th century Habsburg Monarchy overpasses the contemporary theories. Whereas the political visions became mainly conspicuous as follows, I also have to mention the role of the statistic in this question.

Nation as the principle of the social group- and state organization gained such a dominance in the 19th and 20th century, so it could first query the common imperial idea in the Austro-Hungarian Monarchy and finally overpasses it as state organizing factor. Although the political “power” basis for the phenomenon of nation – which became through evolutionary and revolutionary events occurring during socio-economic and political processes significant, since the “nation” was fixed as irrefutable principle by the French Revolution 1789- was really recognized on a scientific level in the Austro-Hungarian national state, the theoretical solution proposals were not able to exert enough pressure to the political practice of the Monarchy.¹⁶ Karl Renner writes about nation construction developed since the French Revolution even at the end of 1917:

¹⁵ Robert A. Kann, *Das Nationalitätenproblem der Habsburgermonarchie*, 2 Bd. (Graz-Köln) 1. Bd. 5.41.

¹⁶ Vgl. Wenzel Erind, *Das sprachliche und sprachlich-nationale Recht in polyglotten Staaten und Ländern mit besonderer Rücksichtnahme auf Oesterreich und Böhmen* (Wien 1899) 5.3.

„Die Nation und nur sie allein hat das Recht und die Macht, aus eigener Initiative in der Welt zu handeln. Es gibt keine Macht über ihr, keine geistliche und keine weltliche. Und was unter ihr steht, hat seine Gewalt nur kraft ihrer Verleihung und Duldung.“¹⁷

„The nation and only it has the right and power to act on it's own initiative in the world. There is no power above it, neither secular nor religious. And what is underneath its power has some force through its connivance and enfranchisement.” At this point Renner speaks about “political nation”, about active nation, as against the nation-interpretation lasting till the end of the 18th century. This historical concept of nation was called “a cultural”¹⁸ by Renner, whose most striking feature is its passive character.¹⁹

It does not fall within the investigation dealing with the specific problems of colloquial researches beyond the Lajta to explore the reasons, why the nation concept did not become a relevant principal historically during the human cohabitation before the 19th century; however some models should be mentioned in connection with the formation of the nation and national consciousness.²⁰

As the representative of the organic, continuous development of the nation concept – accepting the historical origin – first of all Leopold von Ranké should be mentioned. The representatives of this group regard the nation as one in development that breaks with the older organizational forms in no way.

A second model talks about the nation as a category over history, which is independent of the historical development. The historians belong to the last group are those, to whom signify nation and national consciousness as the absolute novelty since the 18th century. Like in case of the majority of the reflection models we have to be careful with the application of each model for historical reality; it is ought to search for the more weighted approach of the problem of nationality in the old Austria, like the above-mentioned schemes offer. The meaning of the word “nation” did not became political relevant till the 19th century, although the national ideas were already brought by the ideas of the Enlightenment into prominence. The reasons, why the idea of the nation played such a crucial role just in the 19th century, can be found in the economic and social transformations. Thus for example political changes were caused by the abandon of the domestic economies in the economy,

¹⁷ Karl Renner, Das Selbstbestimmungsrecht der Nationen in besonderer Anwendung auf Oesterreich. Teil I: Nation und Staat (Leipzig und Wien 1918) S. 9.

¹⁸ Ebd. S.8.

¹⁹ Vgl. dazu Friedrich Meinecke, Weltbürgertum und Nationalstaat. In: Friedrich Meinecke, Werke. Bd. 4. hgg. und eingeleitet von Hans Herzfeld (München 1962) S. 15.

²⁰ Vgl. Moritz Csáky, Nation und Nationalstaat. Gedanken zur Genese des neuzeitlichen Nationsbegriffs. In: Integratio. Die Volksgruppen in Österreich (Wien 1979) 5.15-22.

formation of larger production units and the existing economic conditions. The formation of new ideas like popular sovereignty and the equality of citizens, the image of the common nation was already created in the French Revolution, when the nation was understood as the political community created by *volonté general*. (J.J. Rousseau, E. Renan)

At that time the feeling of national cohesion could only evolve by the collapse of class-granularity society. The newly awakened, politically motivated national feeling in the European region was strengthened and evolved by the effect of two facts: first through the Napoleonic wars, which caused national resistance on the affected areas, secondly from cultural aspect the era of Romanticism generated, that it has been concerned with the concepts of nation and folk in particular in German culture. Herder, the father of the German examinations in connection with the national values, was already created the prerequisite of the later irrational nationalisms with the determination based on cultural and biological earmarks of the folk.

The nation-concept of Central and Eastern Europe soaked by romanticism and the plethora of the German literature in connection with the issue of the folk and nation rests on two foundations: on the one hand on the outstanding importance of romanticism, which won the contemporary for the romanticism and which still give them priority in the German intellectual history, on the other hand on the fact, that in the first half of the 19th century the ethno-national groups were beyond the frameworks of the existing small states – did not make a larger political united effort yet. The way of the hero of the drama “Leonce and Lena” written in 1836 by Georg Büchner, the author of Vormärz, leads through “German land”, by the time his servant, Valerio says:

„Wir sind durch ein Dutzend Fürstentümer, durch ein halbes Dutzend Großherzogtümer und durch ein paar Königreiche gelaufen, und das in der größten Übereilung in einern halben Tag...”²¹

“We have already passed over a dozen principalities, half a dozen Grand Duchy and a few kingdoms and we did this in the largest haste during a single half of a day...”

The political arrangement formed along the national viewpoints - against the situation of the western European countries – lead to the whole 19th century recognized “German language use”, in which the nation term referred to the common origin and the common ethnic origin existing and the formed ethnic and cultural connection. The nation was citizenship at the same time for this language use, while the word folk was used to express the

²¹ Georg Büchner, Gesammelte Werke (=Goldmanns gelbe Taschenbücher 395, München 1969) S. 124.

political united effort. Against this eastern and central European theory on the areas, where cultural union based on political association,²² namely in the Anglo-Saxon and partly Romanian region, there widespread an unified theory, which says that under nation it is meant a belonging to a political united effort and the citizenship²³, and so the registration of nationality on official population census could not became as politics, in the meaning of national conflicts. This opinion meant under nation people with the same nationality and so it was formulated such a concrete definition, which did not provide any solution for the Austro-Hungarian national state. The ideal of the common imperial idea in the Austro-Hungarian Monarchy could not enforce the nation concept, which obviously would have been for the state, against the particular interests of each ethno folks and historical nations:

„Wir können immerhin diese Monarchie als Einheitstaat declarieren können, ihr eine geben, welche im Punkte der Centralisation sogar die französische noch hinter sich zurücklässt; können ihr Gebiet mit Winkelhaken und Lineal in correcte Quadrate theilen, oder ihre einzelnen Länder nach den verschiedenen Nationalitäten zerstückeln. Zuall' dem braucht man sogar verhältnissmässig wenig Zeit. Aber den Begriff, welchem 35 Millionen Menschen mit dem Worte Vaterland verbinden, diesen Begriff, so irrig oder veraltet er auch sein möge, vermag keine Macht und kein Raisonement plötzlich umzuändern, und dieser Begriff ist, vielleicht das einzige Erzherzogthum Oesterreichs ausgenommen, nicht mit dem gesammten Reiche, sondern mit der einzelnen Provinz verknüpft.“²⁴

“However this Monarchy can be declared as a united state, giving a constitution, which in its points concerning the centralization leaves the French one behind itself; and which territory is divisible with composing stick and rule onto equal squares, or which single areas can be shared after different nationalities. Above all this needs approximately little time. But the concept, with which 35 million human the word fatherland matches is the concept, which could also be such mistaken and outdated, if there is no power and reasonableness it can change suddenly, and this concept of which exception is the only archduchy of Austria, not in connection with the whole empire, but with the single provinces.”

Legoyt, the French delegate of the London Statistical Congress spoke against the consideration of the nationalities in the dispute relating to national statistic, because he only knows one nationality in France.²⁵ The London Congress just like before the one in Brussels

²² Rudlof Herrmann v. Herrnritt, Nationalität und Recht dargestellt nach der österreichischen und ausländischen Gesetzgebung (Wien 1899) S. 16.

²³ Renner, Selbstbestimmungsrecht der Nationen S. 12.

²⁴ Joseph von Eötvös, die Nationalitätenfrage. Übersetzt von Max Falk (Pest 1865) S. 129 f

²⁵ Fr J. Neumann, Volk und Nation S. (Leipzig 1888) S. 131.

(1853) and the Vienna Statistic Congress deal with the methodological questions of demographics. All the arguments around the questions being aimed at the definition of folk and nation concepts and some related scientific and journalism opinions ended with a methodological argument, while the actual essence of the nationality question was sidelined.

The aim of the national movement was in the contemporaries' eye to get the political power and to practice the political rule.²⁶

The desire for the national equality included the ambition to supremacy above the national minority, because the national feelings were based on the belief of “individual greatness”, like in 1872 Gustav Rümlein expounded it in connection with the interpretation of the folk concept in his writing, “Speech about the folk concept”:

„Am liebsten würden wir den Schmuck dieses Namens ganz jenen Gruppen der Menschheit vorbehalten, welche eine eigenthümliche Anlage an Geist und Gemüth in festen und bleibenden Formen auszuprägen vermochten...”²⁷

„We have a good mind to reserve the jewelry of this name for each groups of humanity that wish to express a peculiar supplement in a lasting and enduring form for mind and soul.”

In 1851 the Hungarian politician and statesman Baron József Eötvös already recognized and analysed this:

„Die Grundlage aller nationellen Bestrebungen ist das Gefühl höherer Begabung, ihr Zweck ist die Herrschaft.”²⁸

„The basis of all national Endeavour is the feeling of more aptitude with the aim of power.”

Eötvös not only formulated, according to the scientific notion of the 19th century unilaterally interpreted basic principle of the nationalism – the principal of the individual superiority – but, he went further by a step and determined something that so far opposed in the frameworks of the Austrian Republic, namely the fact that the receipt of majority principle based on population statistics can not be used in nationality questions. The solution of the controversial questions between nationalities could not make an end to the nationality conflicts true to the system without expressed protective measures brought onto the protection

²⁶ Vgl. Renner, Selbstbestimmungsrecht der Nationen S. 7.

²⁷ Gustav Rümlein, Reden und Aufsätze. Bd. 1(Freiburg UB, und Tübingen 1875) S.91

²⁸ Joseph von Eötvös, Über die Gleichberechtigung der Nationalitäten in Österreich (Wien 1851) S.17

of minorities speaking other language at that time in Austria, because the essence of national principle for Eötvös meant first of all the “aiming for power”.

„Überall der Kampf um Gleichberechtigung, ehe diese erreicht ist; Überall das Streben nach Herrschaft, wie man nicht mehr gegen Unterdrückung zu klagen hat.“²⁹

“A fight is going on for the emancipation everywhere, before it would be attained; everywhere the desire for the power, as one does not have to complain already against oppression.”

Actually the dynamics of the nationality question consisted in its background that the problems in the contemporary Austrian right and social system could not be solved. Those terminological difficulties have not been mentioned yet, with which all the branch of science, which were in connection with the concept of nation and folk in the 19th century, confronted. The fact that the political significance of the question of nationality intensified in the 19th century, brought the claim for a uniform scientific terminology. The process of seeking consensus on this issue is still not finished, but some trivial explications and explanations used already concepts acknowledged uniformly on the field of ethnography, statistics, sociology and the jurisprudences in the second half of the 19th century. The older literature, like Fichte, Mohl and Ahrens did not make a difference between the concept of nation and folk, while these concepts were used differentiated approximately since the middle of the previous century. One of the opportunities of the separation consisted in the fact that the nation was taken as a political union and was supposed as a natural union. If we follow this model, the folk gets into the status of nation being defined as a state and political unit:

„..... es ist die Institution des Staats, in welcher ein einheitlicher, ordnender, intelligenter Wille der Kräfte, Anlagen und Richtungen eines Volkes zur realen äußeren Gestaltung bringt, und das Volk zu einem beseelten, persönlichen Wesen wird.“³⁰

“...it is the institution of the state, in which the alike, ordered and reasonable will of the power brings the realization of the setting and direction of a folk and so the folk will be an inspired, impersonate existing.”

The consequences, concerning the nationality concept deduced from the nation theory interpreted as state unit, is equal with the western nationality interpretation, so both theories affected the coincidence of the state affiliation and nationality. Now that type of inference could not be drawn after the real relationships in the eastern and central European region, Eötvös uses the concept in his writing “About the equality of the nations living in Austria”,

²⁹ Eötvös, Über die Gleichberechtigung der Nationalitäten S. 19.

³⁰ Gustav Rümelin, Reden und Aufsätze. Bd. 1(Freiburg und Tübingen 1875) S. 108

which were recognized as basic principle and were later also theoretically aimed by the most people dealing with terminological questions. Opposite the above quotations the folk was accepted as political unit in the meaning of how Fr. J. Neumann wrote it in his work entitled “Folk and Nation”:³¹

„Und in dieser Beziehung ist Volk heute erstens der spezifische, unter allen Umständen zulässige Ausdruck für „politische Einheit“, besser gesagt: für die Gesamtheit der Angehörigen des Staats.“³²

„And in this look today the folk is primarily the special and for the “political union” between all circumstances allowed expression, or rather: for the totality of the state's members ”

The nation expression was reduced to the common origin and the ethnic and cultural connection coming from it, in consideration of the historical development. The difference between the nation and nationality was defined, unlike the other terminological questions, in a way to fulfill the scientific requirements.

„Nation und Nationalität bezeichnen eine Gruppe von Menschen, welche unter sich eine gewisse Gemeinsamkeit haben und eben durch diese Gemeinsamkeit, die wir gleichfalls „Nationalität” nennen, von anderen Menschengruppen sich unterscheiden.“³³

“Nation and nationality is a kind of group of people, which has a conscious togetherness and exactly this togetherness, which is also called as “nationality”, makes a difference from other groups of people. “

That is why nationality double meaning has.³⁴ In one hand it means a concrete group of population, when in this context races with the concepts of nation and tribe, on the other hand it shows the collective status of a group or as Herrnritt says it shows the “abstract characterization of the tribe”.³⁵ Neumann tried to describe those signs, which characterized the “tribe”, in the definition of the concept, using it in the contemporary legal life and administration, but first of all in the Paragraph XIX from the state constitution, December 21, 1867.

„.....eine kleinere Bevölkerungsgruppe, die infolge der Gemeinsamkeit äusserer Lebensbedingungen und eigenartiger Kulturanfänge ein eigenartiges gemeinsames Wesen gewonnen hat, das sich von Generation zu Generation überträgt und sich vorzugsweise in

³¹ Herrnritt, Nationalität und Recht S. 16 f.

³² Neumann, Volk und Nation S. 32 f.

³³ Ebd. S. 8.

³⁴ Gerald Stourzh, Die Gleichberechtigung der Nationalitäten und die österreichische Dezember-Verfassung von 1867. Sonderabdruck aus: Der österreichisch-ungarische Ausgleich von 1867, (Wien/München 1967) S. 191.

³⁵ Herrnritt, Nationalität und Recht S. 17.

gemeinsamer Mundart, gemeinsamen Charakterzügen, gemeinsamen Sitten und Gebräuchen und in dem Gefühl der Zusammengehörigkeit zu äussern pflegt.”

„A smaller ethnic group won as consequence outer living conditions and the unique cultural beginning of the unique common being, which was pressed out with the common dialect transmitted from generation to generation, common characters, common custom and tradition and mainly with the feeling of togetherness.”³⁶

Neumann speaks about those moments, which characterize the existence of the ethnic group, with the designation of ethnic group concept, also the subjective and objective elements of the determination of nation and nationality word in the first meaning. With this movement the essence of relevant allegations for the nationality statistics were emphasized. Any draughting joins the phenomenon “natio”, the central question was the definition of the criteria, which were allowed by the already existing organizational relations. In other words: it came the problem from the refusal of the nation's identification with the citizenship, which has to give the basic of all the further conclusions, in the frames of the writing dealing with the colloquial researches beyond the Lajta: Which signs should define the nationality?

The criteria of nationality

The criteria of nationality did not only give the basic of the statistical survey of nationalities, but also had a deciding significance for the theoretical propositions. The under mentioned possible criteria counted as accepted one: the common origin, the racial affiliation, common residence, common historical and cultural background, religion, furthermore the common language. Meanwhile the language did not enjoy priority at all, opposite the world of ideas in the 19th century, without making a sharp difference between the concepts of nation and nationality, between the two concepts, which in many cases covered each other not at least because above all the national self-evaluation of each ethnic groups was revived by the language. In the scientific interpretation lives the opinion that language is the most important way to express the national self-evaluation, although the smallest, grammatically separated groups had to identify with this legitimacy theory in some cases to realize the national group-egoism above the language self-reliance with the slight educational and cultural standard. The science overestimated the values in the common language, in case it judged the connection between the contemporary “language euphoria” and the real complex features of nationality – due to the nationalistic tendencies – false.³⁷

³⁶ Neumann, Volk und Nation S. 48.

³⁷ Wenzel Frind, Das sprachliche und sprachlich-nationale Recht in polyglotten Staaten und Ländern S. 96.

„Die Gemeinschaft der Sprache ist also, wie die gewöhnliche Meinung mit Recht annimmt, das zuverlässigste Merkmal nationaler Gemeinschaft.”

“So the speech community, as the usual opinion accepts it worthily, is the reliable sign of national community. “

The „public opinion” and the scientist also argued with what he experienced in reality, and the language nationality, which had to meet a concrete target in the range of thought of several nationalisms in the situation of differently grown national groups in Austria, was increased a principle, which reduced the contrast between nationalities into language question; although the national movements used the language consciously to the validation of the national interests.

Like Gumplowich formulated it, the language in Austria „nur die Idee, die erhalten muß, um die Tendenz zu beschönigen”(„only the idea, which has to be kept to upgrade the tendency ”):

„Da diese letzteren Gegensätze mittelst der verschiedenen Sprachen sichtbar in Erscheinung treten, so nimmt der Kampf die Form des Kampfes um die Sprache, respective um das Recht oder die Gleichberechtigung der Sprache im öffentlichen Leben an. Aber diese Form ist nicht das Wesen des Kampfes. Das Wesen desselben kann kein anderes sein wie dasjenige aller anderen socialen Kämpfe, nämlich der Kampf um Herrschaft.”³⁸

„Now that the latter contrast between the different languages expressed themselves apparently, the combat for the language took the form, which is struggled for the rights and equality of language in the public life. But this form is not the essence of fight. The essence can not be different as the essence of all the other social fights, namely the fight for power.”

Gumplowicz’s resolution holds unambiguously social-Darwinist features and so shows identity with the imagination of the considerable part of the quoted contemporaries.

The overstate of the language can also be found in the decision of the International Statistical Congress, which made the “national statistic” be instituted and from this aim built a lingual moment into the census heading. After the official declaration the nationalities in Austria were not the parts of the lingual census after 1880, national conflicts flared up because a part of the population assumed that the wealth of several nationalities was raised above the vernacular. That is how incongruence was made, the persons making the counting as well as the part of the asked aimed for representing the language as the device of understanding on the census, while the other part of that persons accepted the essence of the

³⁸ Ludwig Gumplowicz, Grundriß der Soziologie (Wien 1885) 5.160.

language principle – after the social-Darwinist doctrines – as the expression of the fight continued for national supremacy and this supposed to be a norm at the census. Back to the criterion of the nationalities, which are not in the aspect of national statistics relevant, but first of all had a final significance in the area of nationality right, we have to point at a tendency, which caused another weightings of the definition of the nationality around the end of the Monarchy, namely the popularization of the national ideas and as its effect the strengthen of coherence feeling.

Beside the previously-determined so-called “objective” signs get the “subjective” signs even more into the explanation of the nationalities – on the effect of the national development of several tribes –, among others the national consciousness, the feeling of togetherness and at the end the undertaking of nationality affiliation based on the free resolution of the individual.³⁹

By the overview of each theory, in connection with the determination of nationality the following defaults can be seen: the two extremities of national approach, like the unilaterally subjective and objective approaches are not mutually exclusive a priori, rather can be experienced a universally acceptance by both methods.⁴⁰

Fundamentally more factors were always effective collectively, but no conceptual consensus was made in terms of combination and number of necessary factors. As we can read it out of the works of scientist dealing the most with the conceptual principles of the national question, like Renner, Herrnritt and Bernatzik, in the last years of the Monarchy had the so-called “Bekenntnisprinzip” increasingly bigger significance in the scientific theory, without changing the methods by the survey of the nationality ones. It can be expressed as a summery for all the scientific opinions answering the terminological questions of nationality problems, written till the end of the Monarchy – taking into consideration the wide dispersion of the single solution proposals: The nation, similar to the from this viewpoint synonymous nationality and tribe concept, was determined as social group due to the scientific explanation of the period, which group was shaped by the objective and subjective signs acting on different ways and which represented absolute power endeavors opposite the other principles of human cohabitation.

³⁹ Aus diesem Grund werden die „subjektiven“ Momente in der Literatur häufig unter dem Begriff „Bekenntnisprinzip“ subsumiert.

⁴⁰ Vgl. Wolfgang Steinacker, Der Begriff der Volkszugehörigkeit und die Praxis der Volkszugehörigkeitsbestimmung im altösterreichischen Nationalitätenrecht (=Schriften des Instituts für Sozialforschung in den Alpenländern an der Universität Innsbruck IX. Folge, Innsbruck 1932).

SUMMARY

The Vienna and Kremsier Parliaments were really the first manifestations of the new civil consciousness, which was not even broken by the neo-absolutism. This Parliament consisted, just like later on, a fatal problem in the centre: the problem of nationality question. This problem during the years not even decreased, but it became more larger, and the contrasts intensifies even better.

The question of nationality became the most burning question of the Habsburg Monarchy, but at that time nationalism did not have that kind of “explosive force”, like at the end of the turn of the century. I would like to research the period after 1867 in the course of my later searching work, and to examine the effect of the Kremsier Draft on the later period.

From the many unanswered questions, which are presented during the research, there is one always remaining:

- Why did the government draw up a constitution, which already has been known that it will not be realized?

The main reason of this paradox could be the fact that: Schwarzenberg did not feel himself strong enough at the beginning of the year 1849 to apply his political ideas plainly in the practice. Probably the government would not find enough sponsors to its ideas, and so it concluded an appearance compromise with forcing the constitution. That is how the population calmed down, and it could be set a dam to the reanimations of the revolution. Schwarzenberg bought time.

The partitioning of the Kremsier National Assembly did not make an end of the arguments, concerning the reformation of the Monarchy. The argument was even more shifted from the direction of federative, centralist ideas, which was resolved by “federative centralism” in Kremsier, into the direction of the question of national autonomy. The national autonomy in connection with the principle of the so-called „Personalitätsprinzip” unfortunately was not able to get real in Kremsier, and could not even be realized in the conciliation with a good half of a century later, or neither in the plans of Karl Renner, because of the effects of the political events. In the further enhancement of my thesis I would deal with pleasure with the determining political events of this period and their on their mode of action on the establishment of the national ideas.

Return to the partitioning of the national assembly, in my opinion, it was a false decision not only because the opportunity, of accepting a not really ideal, but in its basics democratically elaborated constitution, was destroyed, but also a couple of years of dialogue

between representatives of the peoples of the monarchy were lost. The dialogue, which would facilitate the mutual understanding and acceptance, and would prepare the solution instead of the ignorance of the subsequent, nationality, social and political problems coming into the foreground, was prohibited.

3.3. NOVELTIES OF THE RESEARCH

THE SIGNIFICANCE OF KREMSIER

The Parliament of Vienna and Kremsier meant the first unambiguous manifestation of the new civil consciousness – a consciousness that could not be broken by the neoabsolutism. Fatal identity is observable between the Parliament (Reichstag) and the later double-chamber imperial parliament (Reichsrat). The nationality question played an important role in both of them. The weight of this problem did not decline, though increased more and more and the conflicts increasingly became strained. Perhaps it could be the explanation for the idea that several people suppose, saying that Kremsier would be the last opportunity for the saving of the Habsburg Monarchy.

Definitely, the Kremsier Draft Constitution was extremely liberal, sometimes with radical characteristics. However, this condition was part of the compromise, because the standard-bearers of liberalism in Austria, the German-speaking citizenship had all their hopes in Frankfurt. They expected the freedom and the liberal fundamental principles to be put into practice from there. Soon it turned out that the national structure of multinational state considering the attendance in the remodelling German Empire meant the biggest difficulty for the Habsburg Monarchy. It did not mean a problem for the national radicals, because they were not interested in the maintenance of the Habsburg Monarchy, on the contrary, they claimed the union of the German-speaking territories with Germany. Although, not every liberal thought this way; many were fantasizing about the join of Austria to Germany, but the all parts of the Habsburg state, including the Slavic territories, Hungary and the Kingdom of Lombardy-Venice, would belong to the German Empire – this was a suggestion that the not German nationalities of Austria did not take with great enthusiasm.

Although the German liberals were blind to the fact, that Austria was a state of mainly non-German language and this condition is the greatest object for the joining with Germany. The other reason was that neither the imperial court, nor the Schwarzenberg-government intended to renounce the sovereignty, and independent statehood of Austria. So, they rejected the subordination to the overall German state.

In terms of the German national union, the only possible solution was the minor-German variation with the joining of Austria to the German union. Many Austrian German liberals accepted this solution and resigned the German state. Nevertheless, they were not ready for the resignation of Germany without compensation. According to them at least those liberal fundamental principles should be guaranteed for them by the Austrian Parliament that were claimed in Frankfurt.

In this question the German liberals were stuck, and it had to be accepted by the Slavics – first of all the Czechs - . However liberalism rooted also in the Slavic provinces, claims emerged less. The liberal primary laws were accepted by the majority of the Parliament, only the conservative and clerical representatives voted against them. This group had little right of intervention in the Parliament, but in the government they had a bigger right of intervention. Even the Kremsier constitution would be sanctioned by the Emperor; it seems questionable whether the primary laws would be carried out in the form, elaborated by the Parliament.

The nationality question meant one of the questions of the most hours for the Habsburg state, though the nationalism of the middle of the 19th century was not so important at all than in the end of the century. The basic consensus considering the entire constitution was insignificant: They agreed on the affirmation of the maintenance of the Habsburg Monarchy, but they had different ideas about the foundation and acquisition of the state. Among the German-speaking popularity the aspect, according to which a centralized, effective state would be enough to undertake the new times' problems, dominated. In this question the conservatives and the liberal German-speaking Austrians agreed. Though they were not homogenous about the question whether the democratic institutions should be established. Both the conservatives and the liberals insisted on the German state language.

While the former did this because of interests for their own benefit; German language meant more for the German liberals: The German world of ideas has to make the supposedly undeveloped Slavic folks happy and they have to know the liberal ideas. For the German liberal politicians it was unclear, why the “German mission-theory” and the national emancipative movements. It has to be added that this “mission-theory” was supported not only by the majority of the German-speaking intellectuals, but also the Hungarians and Italians. It is also observable at the Austrians of German origin that they wanted to preserve the German character of the Habsburg Empire not to give up totally the hope for the unification with Germany.

While the Austrians of German origin, because of these reasons, fought for the centralized structure of the state, the Slavic, especially the Czechs intended the federal state structure operating on the principles of provincial units based on historical basis.

For the Czechs this would mean an advantage, with the help of which an autonomic, Czech part state would be established on the territory of the Habsburg Monarchy. For these part states, according to the ideas of the federalists, it should provide the biggest independence, while in several member states – that are centrally organized – numeral national minorities would not possess more power than in a central state.

Even the confederation of the crown lands could provide a really useful solution in term of the national question. Thus a third conception emerged in Kremsier: Instead of the alliance of the crown lands, the Austrian folks should form an alliance with each other, the Habsburg Monarchy have to be divided into national states possessing autonomy of various extent. This idea went through all the provinces: we can find it at the Slovenians too, Matija Kavčič represented this idea, in Italy it was Ferdinando Gobbi in a moderated form, the Croatian Ognjeslav Utješenović-Ostrožinski, and we can find this idea in Poland, their aim was to unite the historical Poland, and at the Czechs, it was Frantisek Palacký, who propagandized this conception.

All the suggestions had a significant disadvantage: every theory was based on the autonomy of the terminated territories, which never could fit for the dispersed national territories. For the minorities, the territorial autonomy was not appropriate, but the national federation of Austria would be an interesting attempt for the solution of the nationality question, but the majority of the Constitutional Committee of Kremsier representatives did not dare it to risk. There were too many open questions, the uncertainty related to this was too great, and the centralists had too large fear on the disintegration of Austria and the too large fear of the federalists on the collapse of the provincial units. Any possibility was chosen from the given three – centralism, historical or national federalism – the regulations concerning the protection of the national minorities had to be integrated into the constitution. The most representatives, and not only the German liberals, nevertheless, shared the opinion that the national minorities are protected properly by the principles serving equality of the tribes, declared in the constitution.

Hereby, a compromise between the centralizing conception and the theory of the alliance of the crown lands was born in the Constitutional Committee. Beside the provincial assembly and the Parliament, smaller parliamentary units should be established, in the form of district assembly. The primary assignment of these – according to the explanation of the

centralists – has to be the protection of the minorities. Pinkas had a counter-proposal, according to which national mansions should be established for the protection of the minorities in the provincial assemblies.

1. The catalogue of basic rights which were accepted by the Parliament that were too radical, and several regulations were voted that were not sanctioned by the Emperor.
2. The government wanted to realize the overall state, so a possibly centrally directed Habsburg Monarchy with the joining of Hungary and the Kingdom of Lombardy-Venice.
3. The controlling role of the Parliament obstructed the operation of the government. Several petitions were submitted, in which the politics of the government was violently judged – for example: in connection with the Italian war, the liberty of the press and the German question.

We could surely enumerate several reasons of the dissolution of the parliament, and the question of the center of the gravity is also not irrelevant. Overall the arguments brought to the dissolution of the parliament were such convincing, that at the end the Stadion also accepted them, although opposed this movement all the time. It had a deciding significance in the hard procedure of the government that the parliament lost its support among the population. The reasons of the adverse judgment of the parliament were that the revolution of 1848 lost its force, the enthusiasm disappeared, which also characterized the fight for the realization of the liberal claims in 1848, and was followed by some kind of awakening. The peasants, after the discharge of the estates, lost all their political interests. The realization of the folk representation was aggravated by the condition that expectations of the population were great. When the parliament in the days of the revolution in October did neither show unified attempt nor succeed to transmit between the owner of the power and the revolutionists, and its image changed significantly. The Kremsier Parliament was dealt a fatal blow by its transposition, the folk representatives lost all their connections with the population and they were displaced both political and geographically.

The drawling procession of the negotiations about the constitution and those information, which were known by the population about consultation, were not really encouraging: in the constitutional committee almost broke a scandal in connection with the nationality question out, when a decision was made about the division of Tirol into German an Italian part. The German speaking people of Tirol threatened that they going to leave Kremsier and it could be prevented only on the price of big difficulties. Even the Czech people - who sympathized the most with the parliament – did not accept with enthusiasm the

Kremsier constitution, which though included an important federalist point of view, but not even mentioned the realization of the Czech constitutional law and the imperial constitutional promise of the 8 April.

Regarding the constitution an arrangement was made in the constitutional committee, but nobody was satisfied about it. The government wanted to shift the unpopular decisions, like the text collection, recruitment, and so on, to the parliament, as a result its authority decreased even more among the population. The mentioned problems could be called the childhood illnesses of a young democracy; these difficulties could be negotiated, but the folk representation was not even given a chance. The government could disqualify “Reichtag”-problem the easiest with the dissolution of the parliament.

The government also had to take into consideration, beside the parliament, Windischgrätz, who almost was in Ofen, which made the connection really hard and long. He could not show up any military successes after the taking of Ofen, which did not gain the approval of the standard politicians. Instead, he started to act even more like a politician, wrote letters daily to the prime minister, in which he shared his opinion about the state of the Habsburg Monarchy and reviewed the movements to be done. The content of these writing could be abstract like this: the dissolution of the parliament, the arrest of the representatives, the abolishment of all the liberal laws, furthermore the formation of a federal state, in which the landowning nobility has to increase to the new ruling class.

Schwarzenberg yield to Windischgrätz only apparently, but he was not thinking about at all to take into consideration the wishes of the Field Marshal. This led to complications, especially in those cases, when the government absolutely needed the approval of the Field Marshal, like in the question of the constitution of March. After long-lasting discussions and several negotiations and broadcastings an agreement was made. At the end Windischgrätz took the for him inapposite constitution made by the cabinet, but only next, that he was informed about it is never going to be real.

The dissolution of the parliament was irrecoverable mistake not only because the acceptance of a not ideal, but anyway democratically worked out constitution was prevented, but especially because after this the communication between the representatives of the Austrian folks and provinces was broken for more than a decade. A dialogue was prevented that supported common understanding more than the neglect and ignorance of the emerging important political, national and social problems.

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V. APPENDIX OF THE PRIVATE PUBLICATIONS IN CONNECTION WITH THE SUBJECT MATTER

New Publications

- 2010. „Die Wiederentdeckung Mitteleuropas in der Donauregion“ - **tanulmány**
In: Erbauendes Spiel – Unendliche Spur, Festschrift für Zoltán Szendi zum 60. Geburtstag im Februar 2010, Praesens Verlag 2010 Wien, 541-555.o.

- 2010. **Monográfia**
Csilla Dömök : Nationalitätenfrage und Verfassungsgeschichte in Österreich zwischen
1848-1867. Österreich und der Föderalismus, 2010 Wissenschaftlicher Verlag Berlin
ISBN 978-3-86573-525-6

- 2010. „A kisebbségtől a népcsoportig“ - **tanulmány**
In: Európai Tükör XV. Évf.4. szám 2010 április, 67-81.o.

- 2010. „A népcsoportok és nyelvi kisebbségek államon belüli védelme a mai Európában.“
tanulmány
In: Biztonságpolitikai Szemle III. Évf. 3. szám 2010 április, 48-57.o.

- 2010. „Demokrácia és egyenlőségi elv a népcsoportvédelem vonatkozásában“ -
tanulmány
In: Európai Tükör XV. Évf. 7-8 szám 2010 július-augusztus, 59-71.o.

- 2010. „Az emberi jogok fejlődése Ausztriában, XX. századi remények és adottságok“
- **tanulmány / 1**
In: Biztonságpolitikai Szemle - várható megjelenés 2011 szeptember
/ szerkesztői befogadó nyilatkozattal /

- 2010. április 8-10. 3. Kongress des Mitteleuropäischen Germanistenverbandes, Bécs
Az előadás címe : „Mehrheit-Minderheit“. Die Entstehung von „Minderheiten“
Az **előadás megjelenik** a konferencia kötetében, várható megjelenés: 2011 július.

- 2010. szeptember 9-11. „Wechselwirkungen“ c. Konferencia PTE Germanisztikai
Intézet, Pécs
Az előadás címe: „ Das altösterreichische Nationalitätenrecht und die deutschen
Volksgruppen nach 1918“
Az **előadás megjelenik** a konferencia kötetében, várható megjelenés 2011 szeptember

- 2010. december 15-17. VI. Internationaler Germanisten-Kongress, Sevilla
Az előadás címe: „Literatur und Politik – Peter Handke: “Unter Tränen fragend”
Az **előadás megjelenik** a konferencia kötetében, várható megjelenés 2011 június

- 2011. február 28- március 3.18. Internationales Erasmus-Euromir-Seminar
Konferencia, Nápoly
Az előadás címe: Die kulturelle Identität der ethnischen, religiösen und nationalen
Minderheiten

Az előadás megjelenik a konferencia kötetében, várható megjelenés 2011 október

- 2011. "Közép-Európa és a föderalizmus" - **tanulmány**
In: Biztonságpolitikai Szemle, IV. Évf. 3. szám 2011 április 85-91.o.

Former Publications

- 1998. január- a „Századokban”, a magyar történelmi társulat folyóiratában megjelent T. Molnár Gizella :„A kő marad” / Be- és kitelepítések Hajóson / című könyvéről **recenzió**
In: Századok 132. Évf. 6. Szám Bp. 1998. 1399 -1404. o.
- 2000. április- Pécs, az Erasmus program keretében" Minderheiten 2000" c. konferencia.
A **tanulmány** címe: Bestimmung und Begründung menschenrechtlicher Prioritäten
In:" Studia Europaea" - Kisebbségek Európában 2000 c. összefoglaló kötetben, Pécs 2000. 33-39.0.

„Specimina Nova” – tanulmánykötetben megjelent tanulmányok:

- 2000. Pécs- „Specimina Nova" c. tanulmánykötetben,- **mely a Pécsi Tudományegyetem Történész Doktori Programjának tudományos közleményeit tartalmazza** -, megjelent tanulmány
A **tanulmány** címe : Menschenrechtsideen
In: „Specimina Nova", Pécs, 2000. 21-29.0.
- 2001. Pécs -„Specimina Nova" c. tanulmánykötetben megjelent **tanulmány**.
A tanulmány címe: Menschenrechtliche Prioritäten
In: „Specimina Nova"; Pécs, 2001. 4-13.o.
- 2001, március- A „Századokban”, a magyar történelmi társulat folyóiratában megjelent **recenzió** Vigh Károly írásáról: „A Tudományos Ismeretterjesztő Társulat története 1841-2001"
In: Századok 189, évf 8. Szám Bp. 2001. 151-152.0.
- 2005. április - XV. Magyar Alkalmazott Nyelvészeti Kongresszus -- Miskolc
Az **előadás** címe: Menschenrechte im Zusammenhang von Gewalt, Macht und Freiheit
In: „A világ nyelvei és a nyelvek világa" **tanulmány** a XV. Magyar Alkalmazott Nyelvészeti Kongresszus Összefoglaló Kötetében, Miskolc, 2005. 41-50.0.
- 2007. március - V. Országos Interdiszciplináris Grastyán Konferencia előadásai c. tanulmánykötetben megjelent **tanulmány**
Címe: A nemzeté válás európai útjain

In: V. Országos Interdiszc, Grastyán Konferencia előadásai, Pécs, 2008. 71-81. o.

- 2008. március - VI. Országos Interdiszciplinális Grastyán Konferencia – Pécs , **2 tanulmány**

- Az **1 tanulmány** címe: Az emberi jogok vizsgálata az újkori alkotmánytervezetekben

In: VI. Országos Interdiszciplinális Grastyán konferencia előadásai c. tanulmánykötetben, Pécs, 2008. 61-71. o.

/ A konferencián levezető elnöki tevékenységet is elláttam /

- A **2 tanulmány** címe : Nemzetiségi kérdés az Osztrák-Magyar Monarchiában 1848-1867 között.

In: VI. Országos Int. Grastyán konf. előadásai c. tanulmánykötetben, Pécs, 2008. 92-110.o