

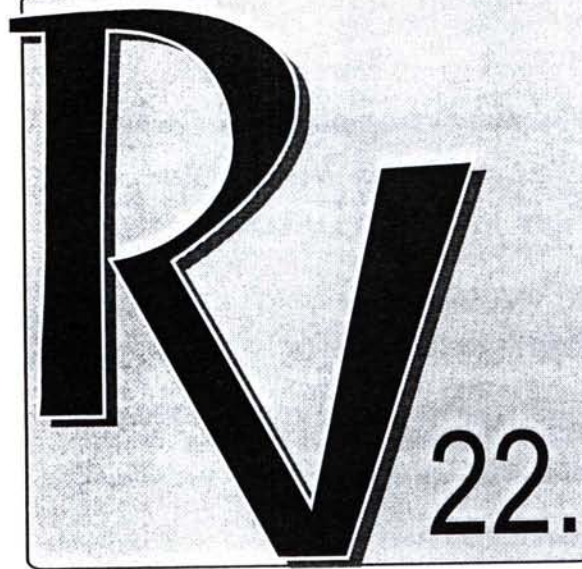


Rechtsgeschichtliche Vorträge/  
Lectures in Legal History

Conceptions and Ideas about National  
Minorities in Hungary 1945-1993

GIZELLA FÖGLEIN

Budapest  
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## Conceptions and Ideas about National Minorities in Hungary 1945-1993<sup>1</sup>

Gizella Föglein<sup>2</sup>

Eötvös Loránd University Budapest

Mr. President, Ladies and Gentlemen!

I would like to deal with conceptions and ideas about national minorities in Hungary between 1945-1993. In my thesis I'm going to present 4 main points, corresponding to international and domestic aspects as well.

Firstly I will make a few remarks concerning the national minority policy of the Provisional Government in 1945. I will discuss the government's proposal entitled „The San Francisco Charter and the National Minority Question”. Then I will talk briefly about the government's plan for a law on national minorities in Hungary.

Secondly I will speak about the so-called „Minority Code”, which was created in Hungary in the period of peace-preparations, in 1946.

Thirdly I will make some conclusions about the failure of these initiatives before the peace-treaty. Then I will try to justify the reason(s) for the absence of a law on national minorities in Hungary in the period after the peace-treaty. And finally I'd like to talk about the law on national and ethnic minorities in Hungary which was realized after so many decades of delay in 1993.

I. Firstly:

The Hungarian Prime Minister's Office prepared an extensive memorandum about the United Nations' Charter, entitled „The San Francisco Charter and the National Minority Question”.<sup>3</sup>

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<sup>1</sup> Habilitation lecture (academic). Eötvös Loránd University, Faculty of Law

<sup>2</sup> Historian, CSc (PhD), Associate Professor; Eötvös Loránd University, Faculty of Law, Modern Hungarian History Department.

<sup>3</sup> A San Francisco-i alapokmány és a nemzetiségi kérdés [The San Francisco Charter and the National Minority Question]. *Magyar Országos Levéltár. Vallás és Közoktatásügyi Minisztérium. [Hungarian National Archives. Ministry of Religion and Education. Bureau of Nationality Affairs].* XIX-1-1-s. 11 168/1945.; Föglein Gizella: *Nemzetiség vagy kisebbség? A magyarországi horvátok, németek, románok, szerbek, szlovákok és szlovének státusáról 1945–1993 [Nationality or Minority? About the Status of Croats, Germans, Romanians, Serbs, Slovaks and Slovenians in Hungary 1945–1993].* Budapest, ISTER Kiadó, 2000. pp. 11–16.

This document analyzed the United Nations' Charter. After reviewing the situation of national minorities in the 20<sup>th</sup> century from the point of view of international law, it then made concrete suggestions for working out a system of legal protection for minorities after the war. (Allow me to cite it:) „It must be stated clearly and unequivocally that national minorities are collective legal subjects... It should be openly expressed that questions relating to national minorities cannot be regarded as domestic affairs of the state... On the contrary, the issue of national minorities is of such international importance that it is organically related to the preservation of international peace and security.”

Besides this memorandum the Provisional Government prepared a framework for a law on national minorities in Hungary.<sup>4</sup> Its basic principle was that „all Hungarian citizens... are equal under the law”. One of the most important individual rights for national minorities was that every Hungarian citizen „could legally use the Hungarian language or the language of his or her respective nationality” in public or private documents. The framework declared active and passive electoral rights for citizens belonging to minorities.

Among the collective rights, one of the most important was the declaration of the guarantee of the freedom to use one's own language before authorities, in offices and in courts. The vernacular could also be used in schools, in the press and in cultural activities. The main section of the document included the legal protection of national minorities as well.

However, this prospective law – due to the circumstances of war – did not deal with the problems of the German minority: „Pending international settlement of their status, current regulations will remain in force.” This international „settlement” was the Potsdam Conference of the Allied Powers. In Potsdam they decided the complete or partial eviction of German minorities from Czechoslovakia, Poland and Hungary and also determined the manner of resettlement.

However, the spirit of Potsdam left its mark on both Hungarian documents. In post-war Hungary – due to international circumstances and because of the armistice status of the state – the Memorandum regarding the San Francisco Charter as well as the prospective law on national minorities failed in all respects. They remained nothing more than proposals, conceptions and ideas.

<sup>4</sup> The framework's original title: A magyarországi nemzetiségek jogi helyzetét szabályozó rendelet alapelvei [Legal Principles Regulating the Life of National Minorities in Hungary]. *Magyar Országos Levéltár. Belügyminisztérium. Törvényelőkészítő Osztály. [Hungarian National Archives. Ministry of the Interior. Legislative Department.]* XIX-B-1-c., 8. doboz, 34. tétel, 150 349/1945.; Föglein Gizella: Törvénytervezet a magyarországi nemzeti kisebbségek jogi helyzetéről [Framework for a Law on National Minorities in Hungary]. *Jogtudományi Közlöny*, 1996/10. pp. 425-428.

## 2. As to the second point of my thesis:

In the period of the peace preparations, the Hungarian Prime Minister's Office prepared a framework for the protection of minorities. The Peace Preparation Department in the Ministry of Foreign Affairs referred to this plan as a „Minority Code”.<sup>5</sup> The code suggested that the protection of national minorities should be inserted into the peace treaties. The proposal advocated the creation of complete regional and individual autonomy, with international supervision and international jurisdiction.

However, the victorious powers held that their plan for the guarantee of individual human rights was satisfactory.

The peace treaty after World War II<sup>6</sup> (in contrast to the one following World War I) regarded the national minority question as a domestic issue of those states in which the minorities were living. Therefore, the proposals of the Hungarian peace delegation were not given attention at the Paris Peace Conference. None of the the victorious powers was ready to support a settlement of minority issues in any form or with any guarantees.

Nevertheless, the significance lying behind the the „Minority Code” was that it was a comprehensive attempt to codify the rights of minorities so as they would be in harmony with the United Nations' Charter for solving regional national minority conflicts.

## 3. Thirdly:

However, even after the armistice status ended (i.e. when the peace was finalized on 15<sup>th</sup> September 1947) no law concerning minorities was born in Hungary. The lack of any conception for the protection of national minorities was not a great concern for international politics, it was more dominant in domestic politics. The „state-party” seized complete power and used it to destroy the coalition alliance. The single party system deliberately and forcefully pushed the national minorities issue off the agenda.

This state of affairs did not change, despite the fact that the „state-party” did create (but did not publish and issue) several resolutions in connection with policies concerning nationalities<sup>7</sup> (in 1956, 1958, 1968 and 1978). The absence of any conception served to support the theory of so called „automatism”.

<sup>5</sup> Fülöp Mihály: A kisebbségi kódex [The Minority Code]. *Külpolitika*, 1989/2. pp. 102-145.

<sup>6</sup> The Peace Treaty signed by Hungary came into force with the ratification of Allied Powers. Hungary ratified it as Act 18 of 1947. *Corpus Iuris Hungarici*, 1947. Budapest, n.d. pp. 142–178.

<sup>7</sup> Balogh Sándor, Editor-in-Chief: *A magyar állam és a nemzetiségek. A magyarországi nemzetiségi kérdés történetének jogforrásai 1848–1993. [The Hungarian State and the Nationalities. Sources of Law on History of*

The resolution which the „state-party” produced in 1988<sup>8</sup> was the first document to recognize the necessity for a law concerning national minorities.

However, in the event, the law on national and ethnic minorities was only finalized on 7<sup>th</sup> of July 1993.

4. Drawing towards the end of my lecture, allow me to make a short review about the law on national and ethnic minorities.<sup>9</sup> The law makes no distinction between national and ethnic minorities. According to the law, the ethnic group can be considered a minority if it has been an indigenous group within the territory of the Hungarian Republic for at least 100 (one hundred) years. The law qualifies 13 indigenous ethnic groups as minorities (as in the law, listed according to their alphabetical order in the Hungarian language): Bulgarians, Gipsies, Greeks, Croatians, Poles, Germans, Armenians, Romanians, Ruszins, Serbs, Slovaks, Slovenians and Ukrainians. This is not a closed list. It may be enlarged if 1000 (one thousand) citizens take the initiative, towards the Speaker of the Parliament, if they wish to be considered a national minority. The law's concept of a minority group is in line with the attitude and practice of European policies for minorities. The law acknowledges that minorities and the majority have equal rights. It also formulates the individual and the collective rights of minorities. The law emphasizes that in the Hungarian Republic „anybody is free to use their mother tongue at all times and in all places”. The law is certainly thought-provoking, or even debatable in its ruling that education for minorities in their mother tongue is only guaranteed if a separate request is made. In order to achieve education in the mother tongue, parents of at least eight from the same minority group pupils have to make this request.

The Minority Act is a so-called „fundamental law”, accepted with a two-thirds majority of the Parliament.<sup>10</sup> The minority law, with all its possible faults and deficiencies, is an exemplary piece of legislation. This law was born after several decades of delay, opening a new period in minority policy and legislation in Hungary.

*Edited text of the habilitation lecture in Eötvös Loránd University on 19<sup>th</sup> July 2003.*

*Hungarian National Minority Question 1848—1993*. Budapest, Napvilág Kiadó, 2002. pp. 680—686., 689—693., 712—713., 715—720.

<sup>8</sup> A Magyar Szocialista Munkáspárt Központi Bizottságának állásfoglalása a nemzetiségi politika továbbfejlesztéséről és a nemzetiségi törvény irányelveiről [Hungarian Socialist Workers' Party Central Committee Position on the Refinement of Ethnic Minority Policy and New Guidelines for a Minority Law]. *Társadalmi Szemle*, 1989/1. pp. 42-47.

<sup>9</sup> Törvény a nemzeti és etnikai kisebbségek jogairól [Law on the Rights of National and Ethnic Minorities]. Act 77 of 1993. *Magyar Közlöny*, 1993/100. pp. 5273-5285.

<sup>10</sup> Although the law is rather elaborate, does not extend to the codification of specific regulations.

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