



Minority Policy in Central Europe: Exploring the Impact of the EU's Enlargement Strategy

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Introduction

In a speech delivered a few days before the Copenhagen European Council in December 2002, Günter Verheugen celebrated the accomplishments of the European Union's (EU) enlargement strategy. Thanks to the EU, the European Commissioner responsible for enlargement argued, the Central and Eastern European candidate countries were able to transform themselves successfully.

They were able to set new rules and new legislation based on EU law and learned to implement it properly. Human rights were respected and minorities protected. Nothing within this process is self-evident but is a fantastic result of a human driving-force for reform, mainly driven forward by the enlargement perspective. (Verheugen 2002)

Verheugen's argument exemplifies a widely accepted view about the profound positive impact of the EU's enlargement process on domestic governance in Central Europe. His reference to the protection of minorities in this context is not accidental. Many politicians and regional specialists alike believe that the process leading to the eastward enlargement of the EU helped engender new and better forms of national minority protection in post-communist countries (e.g., Rupnik 2000: 123-124). But, although assumptions like these seem quite plausible, they are often put forward without much further empirical investigation. Whilst the general effects of membership conditionality and monitoring by the European Commission are acknowledged by various studies, there is little research on the particular impact of conditions and negotiations on the specific policy area of minority protection. And thus new questions spring to mind. If the prospect of EU membership was an important factor in the field of national minority protection, in what direction, then, and to what extent did the EU shape domestic policy-making on national minorities in the candidate countries? And to what extent is the EU factor still visible in current policy plans?

This article explores these questions by comparing the ways in which national minority policy developed in the Czech Republic, Hungary and Poland.¹ In recent years these three countries introduced important changes in minority policy, although not always in the same direction. By examining the presence and role of references to the EU in policy formulation, this article will attempt to determine whether 'EU-isation' has been a major force driving changes in national minority policy; it will also explore possible other factors.

The discussion starts with a brief overview of the minority situation in the three countries under consideration. It then proceeds with a short discussion of the EU's enlargement strategy. The core of the article, section three, will chart the development of minority policy in the three countries. It will not be my purpose to offer a detailed historical overview; rather I will focus on what appear to be the most important driving forces in the domestic policy-making process. An analysis of official policy documents will allow to assess the role the EU factor has played in this development.²

¹ In an earlier paper I have offered additional reflections on the research that lies at the basis of this article (Vermeersch 2003). Parts of the present article draw on that earlier paper.

² For quotation I use the official or unofficial English translations of these documents made available by the relevant government institutions.

Minority Issues in the Czech Republic, Hungary and Poland

A practical way of gaining insight into the levels of impact exerted by the EU on the candidate countries is through comparing countries that find themselves in roughly similar positions. The Czech Republic, Hungary and Poland are exemplary cases: since the beginning of the 1990s they have maintained equally high standards in upholding democratic rules and freedoms, and they have been widely viewed as strong candidates for the first round of EU accessions. Their candidacy for EU membership has never been subject to serious doubts, unlike that of, for example, Slovakia. One would thus assume that they have found themselves at the receiving end of fairly similar amounts of pressure from the EU in order to meet the political criteria for accession. Moreover, unlike Romania or Slovakia, the three countries have become known as relatively ethnically homogenous countries with little tension between ethnic groups, although they do host a number of politically active national minorities. One may thus presume that with regard to the issue of minorities the EU has also viewed them as rather similar cases.

How should we understand the situation of the national minorities in the three countries? The proclaimed ethnic homogeneity of the three countries (not more than 10% minority citizens) seems to be reflected by the available census figures. According to the 2001 census in Hungary, 314,060 (3%) Hungarian citizens identify themselves as belonging to one of the 13 recognised 'historical minorities' (Központi Statisztikai Hivatal 2002). The Czech 2001 census results reveal that almost 10% of the citizens identify themselves as non-Czech (Ceský statistický úrad 2001). Of these the Moravians constitute the largest part (380,474), but since they are not regarded as a distinct linguistic group they are usually not considered to be a national minority.³ Without them the total portion of minority citizens in the Czech Republic is 5.8%. Poland held a census in 2002 that, for the first time since 1921, allowed Polish citizens to indicate their ethnic nationality (*narodowosc*). In this census 3.26% (1,246,400) of the residents did not identify themselves as ethnic Poles; only 1.23% (471,500), however, indicated to which non-Polish group they belonged. The census results furthermore revealed that the Silesians and the Germans form the two largest non-Polish groups in the country. Some 173,200 citizens identified their nationality as Silesian, which is usually not regarded as a national minority identity by Polish politicians, and 152,900 as German (Główny Urząd Statystyczny 2003).⁴

Table 1: National minority population according to the 2001 and 2002 censuses (nationality question)

	Czech Republic	Hungary	Poland
Total population	10,230,060	10,316,723	38,230,00
Minority population	980,283 (9.58%)	314,059 (3.04%)	1,246,400 (3.26%)

³ They are not mentioned as a minority in the report the Czech Republic submitted in 1999 to the Council of Europe (Government of the Czech Republic 1999). Moreover, they are not represented in the Czech Council for National Minorities, which gathers the six most important minorities in the Czech Republic (Slovaks, Roma, Poles, Germans, Hungarians and Ukrainians).

⁴ Interestingly, the report of the Polish statistical office contains an explicitly political interpretation of the census results. Whilst the report calls the Germans, Białorusians and Ukrainians 'nationalities' (*narodowosci*), the Silesians as well as the Roma are defined as 'communities' (*spolecznosci*) (Główny Urząd Statystyczny 2003: 39).



Table 2: Composition of the minority population according to the 2001 and 2002 censuses (nationality question)

Czech Republic		Hungary		Poland	
Moravian	380,474	Romani	190,046	Silesian	173,200
Slovak	193,190	German	62,233	German	152,900
Polish	51,968	Slovak	17,692	Belarusian	48,700
German	39,106	Croatian	15,620	Ukrainian	31,000
Romani	11,746	Romanian	7,995	Romani	12,900
Silesian	10,878	Ukrainian	5,070	Russian	6,100
others and unidentified	292,921	Serbian	3,816	Lemko	5,900
		Slovenian	3,040	Lithuanian	5,800
		Polish	2,962	Cashubian	5,100
		Greek	2,509	Slovak	2,000
		Bulgarian	1,358	Jewish	1,100
		Ruthenian	1,098	Armenian	1,100
		Armenian	620	Czech	800
				Tatar	500
				Karaite	50
				unidentified	774,900

Sources for Tables 1 and 2: Központi Statisztikai Hivatal 2002, Český statistický úrad 2001, Główny Urząd Statystyczny 2003

It is tempting to read the above census figures as an unproblematic representation of the 'real' minority situation in the countries under consideration. However, even a cursory examination of the public and political debate surrounding the figures shows that matters are more complicated. In each of the three countries the official numbers are contested. In Hungary expert reports have estimated the number of people who identify themselves in daily life as minority citizens substantially higher than the figure in the census (up to 7%). Especially the official figure for Hungary's largest minority, the Roma (190,046), has been challenged. Experts have argued that due to various reasons Roma are very often not willing to identify themselves as Roma before an official administrator, even if they identify themselves as Roma in other circumstances. A much-cited study by Havas and Kemény (1999), for example, estimated the total number of Roma to be as high as 482,000. Minority activists have usually estimated the number of Roma even higher. In the Czech Republic, too, the census figures are fraught with controversy. Not only is the case of the Moravians cause for much confusion, there is also the fact that 1.6% of the population has remained unidentified in the census. Moreover, as in the Hungarian case the figure for the Romani population (11,746) is generally seen as much too low. A 1999 government report estimated the number of Roma to be as high as 200,000 (Government of the Czech Republic 1999). The Polish numbers, too, have been disputed. Apart from the problem that 2.03% of the respondents registered as non-Polish but did not identify their nationality, discussion also arose with regard to the number of Silesians. Some argued that the 'real' number of Silesians must be higher than the official figure (such is the claim of the autonomy movement *Ruch Autonomii Slaska*). Others believed that the numbers did not really reflect ethnic awareness among Silesians. They argued that citizens had used the census as a means to protest against the closing of the mining industry in Silesia and the government's apparent lack of interest in dealing with the problem of rising unemployment in the region.⁵

Much can be said about official census figures. Various scholars have pointed out that because of their official character censuses have the tendency to reify boundaries between ethnic groups: they depict 'nationalities' as if they were given and invariable categories. But since the figures necessarily rely on processes of categorisation, interpretation and self-identification, they are never a simple reflection of some kind of 'reality' that would exist outside these processes of categorisation, interpretation and

⁵ Such was, for example, the view of Senator Dorota Simonides (Freedom Union, UW), who has been elected in the Opole constituency in Silesia ('Największa mniejszość – Ślązacy', *Gazeta Wyborcza*, 16 June 2003).

self-identification. As Kertzer and Arel (2002) have argued, censuses do not reflect reality, but they play a key role in its construction. Policy issues surrounding minorities should thus not be understood as directly related to population numbers, but rather as the result of how minority-majority relations are *perceived* and subsequently acted upon by various actors. In the context of this article it is important to note that although census figures in themselves do not reflect the ethnic composition of a country, the political and public debates surrounding the figures can, however, give an idea of what minority issues are at stake and which actors are involved in the political process of categorisation. Census figures and other 'facts' about national minorities are used as references by policy makers as well as by the organisations, parties or activists who seek to 'represent' the minorities. In this way they are used to construct the context in which politicians decide on policy and minority activists on their claims.

Indeed, the very fact that the size of the minority groups are contested in the Czech Republic, Hungary and Poland points to a number of important policy issues relating to minorities in these countries. As far as the saliency of such issues is concerned the three cases display striking similarities. Throughout the twentieth century all three countries have, in one way or another, been involved in projects of 'nation-building', which can be defined as 'a process of promoting a common language, and a sense of common membership in, and equal access to, the social institutions operating in that language' (Kymlicka 2001: 19). Such a process is not unique for Central and Eastern Europe; it has also occurred in what is known as Western Europe. What is important in the context of this article, however, is that the processes of nation-building in the three cases under consideration display a number of striking similarities. Throughout the twentieth century all three countries were involved in a complex venture of constructing national identities and territories. This included, among other matters, important border changes (especially after the two world wars and, in the case of the Czech Republic, also in the 1990s) and the introduction of policies meant to 'nationalise' the state (including population transfers and assimilation programmes). In all three there have been instances of minority nationalism, which should be viewed as dynamically related to the processes of nation-building. Minorities are not stable entities, but have been formed as the result of activists advancing particular claims on the national state, sometimes supported by a third state claiming a historical or ethnic connection with the minorities in question. In the three countries under consideration recent minority demands have included demands for regional autonomy and minority language protection. It is striking, however, that in recent years demands for complete territorial secession have been largely absent. Perhaps even more remarkable is that in each of the three countries a number of national minority issues have been characterised by an important socio-economic aspect. In particular, the Roma are generally acknowledged as a minority that suffers disproportionately from poverty, unemployment and discrimination.

The idea that national minorities should not be seen as fixed entities, but rather as dynamic and relational concepts has received much attention in the writings of Brubaker (1996). According to Brubaker nationalism should be seen as the result of a relationship between three dynamic and contested political fields: national minorities, nationalising states and external homelands. Seen in this way, minority issues are the result of the interaction between at least three groups of actors: minority activists, state actors and actors who are related to what is perceived as the external 'homeland' of the minorities. It has been pointed out that when examining minority issues in the democratising states of Central and Eastern Europe also the 'international' field should be taken into consideration (Smith 2002). International organisations, in particular the EU, have become an integral part of minority politics in the candidate countries. The remainder of



this article will focus on the position of the national state and that of the EU environment.⁶

The EU's Potential to Influence Minority Policies in Central Europe

Before discussing the developments in the three countries, it is worth exploring briefly why it is reasonable to assume that the EU has been able to influence minority policies in the candidate countries. Several grounds for the assumption can be pointed out. The first is that the protection of minorities, although traditionally not a part of the European integration agenda, attained important symbolic meaning after the collapse of communism in Central and Eastern Europe. In the course of the 1990s, the EU member states gradually committed themselves to the principles of human rights protection and anti-discrimination, most notably through the Maastricht and Amsterdam Treaties. But the EU's concern for minority protection in the neighbouring countries in Central and Eastern Europe was always much more pronounced than its internal commitment. Already in the beginning of the decade the desire to contain or prevent ethnic conflict became part and parcel of the EU's external relations towards the candidate countries in Central Europe. Much had to do with the EU's earlier inability to prevent and respond to the acute outbreak of violence in the Balkans and its subsequent fear for the emergence of similar conflict scenarios in other former communist countries. The EU sharply accentuated the role of minority protection in the enlargement process hoping that by so doing it would be able to maintain political stability throughout the future territory of the Union in Central Europe.

A second reason has less to do with specific rational interests of the EU but rather with the increasing spread of minority rights protection as a norm. A number of scholars of international relations have recently pointed to the power of norms in shaping state behaviour (Finnemore and Sikkink 1998). Schimmelfenning (2001) has argued that within the institutional environment of the EU one may assume that members are concerned about their reputation and thus want to justify their interests on the grounds of the accepted standard of legitimacy. According to Schimmelfenning the whole enlargement process of the Union can be explained from this viewpoint. The supporters of enlargement, he argues, were able to justify their preferences on the basis of the norm of pan-European integration and could thus argumentatively 'entrap' the opponents of a firm EU commitment to Eastern enlargement (Schimmelfenning 2001: 76-77). One may assume that norms of minority protection have functioned in a similar way. Throughout the 1990s various actors have actively helped realising the internationalisation of the norm of minority rights protection. Although there remains obviously much controversy in the field, there is nevertheless a striking tendency towards the acceptance of minority rights and the introduction of policies aimed at politically accommodating diversity through, for example, language rights, regional autonomy, special forms of political representation for minorities and so on. It is not surprising that the EU's interest in minority protection in Central Europe followed the increased efforts in standard-setting and monitoring by other international organisations such as the Council of Europe (in particular the Framework Convention for the Protection of National Minorities) and the Organisation for Security and Cooperation in Europe (OSCE) (in particular the High Commissioner on National Minorities).

Thirdly, the potential strength of the EU's influence also lies in its use of the strategy of 'membership conditionality', which directly linked minority protection with EU membership. The term 'membership conditionality' refers to the attempts the EU has made since 1993 to induce policy change and legislative reforms in the candidate states

⁶ The position of minority movements, parties and individual activists will not be discussed in this article, although this is no doubt also a very rich field of inquiry. Elsewhere I have discussed the way Romani activists in Slovakia have perceived the impact of the EU's enlargement strategy (Vermeersch 2002).

by making entry to the EU dependent on compliance with a number of political and economic demands. At the bottom of this conditionality policy lie the 'Copenhagen criteria' (1993), which provided the requirements candidates were expected to fulfil before they could become eligible for EU membership. These criteria included the rule of law and stable democratic institutions as well as human rights and respect for minorities. The Copenhagen criteria are quite general, giving candidate countries little guidance as to what exactly must be done to achieve compliance.

Although the EU has prided itself on the merits of membership conditionality, the academic literature is rather ambivalent on the power of this strategy. The point at issue concerns the vagueness of the criteria. Some authors argue that precisely because of the EU's large margin of interpretation and evaluation conditionality has probably pushed countries much further in reforming and adopting new institutions and measures than they would have done when there would have been a more detailed set of conditions. As Grabbe has argued, it may not just be the EU applying pressure, but competition between applicants which encouraged candidates to seek to comply (Grabbe 2001:1015). Moreover, the Copenhagen criteria formed an additional framework for independent monitoring agencies within which they could protest lack of adaptation and implementation in candidate countries. They could even refer to the Copenhagen criteria when criticising current EU member states.⁷ Others, however, have argued that the conditionality strategy is seriously hampered by the vagueness over which commitments candidates should make in order to safeguard their accession. The 'uncertain linkage between fulfilling particular tasks and receiving particular benefits' may easily diffuse the influence of the EU (Grabbe 2001: 1025). Moreover, the lack of precision has rendered the EU's monitoring mechanism quite limited when it comes to demanding actual improvement. In particular, with regards to minority policies, the EU's demands have not always been equally strict and sometimes even conflicting, which created a lot of room for domestic political debate between sides who construe the accession requirements differently.

One example of how demands by the EU have changed over time in response to political sensitive issues is the issue of the treatment of the Romani minority. In the beginning of the 1990s the EU's attention to the Romani issue in Central Europe was fairly limited. At the time of the introduction of the Copenhagen criteria, the Roma were clearly not a topic of primary concern for the EU because they were, at that time, not perceived as a potential threat to European stability. Territorial national minorities which formulated ethnonationalist claims were identified as a much more serious danger. In the latter half of the 1990s, however, the situation of the Roma gradually became a more distinctive element in the EU's conditionality policy (Vermeersch 2002: 85-88). This was no doubt related to the growing coverage of the Roma's predicament by the international media and by international advocacy organisations such as Human Rights Watch, Amnesty International, the Project on Ethnic Relations, and the European Roma Rights Center. It also had to do with the growth of the number of Romani asylum seekers from Central European countries arriving in the EU. Especially after 1997, it became clear that the European Commission found that the situation of the Roma was to play a certain role in deciding whether a candidate member would be ready to join the EU.

Factors in the Development of Minority Policy in Three Candidate Countries

Hungary

Hungary has gone much further in the codification of collective minority rights than any other country in the region. The formulation of group interests on the basis of ethnicity

⁷ One example of such a naming and shaming strategy is the EU Accession Monitoring Program (EUMAP) of the Open Society Institute. In 2001 and 2002, EUMAP published monitoring reports on minority protection in the ten candidate countries as well as in the five largest EU member states.



gained legal justification in Hungary in the latter half of the 1980s, at a time when the state was beginning to undergo a process of economic and political transformation. The first crucial change was the introduction of legislation in December 1988 and January 1989 establishing the rights of association and assembly. Furthermore, through an amendment of the Constitution in October 1989, minorities gained the right to their own culture, religion and the use of their mother tongue.⁸ In 1990, Article 68 was added to the Constitution, which stated that ethnic and national minorities living in the Republic of Hungary represent 'a constituent part of the State' (Paragraph 1). More importantly, the article stipulated that the political representation of national and ethnic minorities was to be ensured (Paragraph 3), and that these minorities had the 'right to form local and national bodies for self-government' (Paragraph 4). The new Constitution also contained a provision enabling the introduction of a Parliamentary Commissioner for the Rights of Ethnic and National Minorities (Article 32/B, Paragraph 2), known as the 'minority ombudsman', who was given the task to assist minority citizens whose rights are abused.

These legal changes clearly illustrated Hungary's determination at the time to pursue a policy of what could be called 'cultural differentiation'. The aim was to offer special rights to groups that considered themselves to be different in terms of cultural characteristics. In this sense, the new emphasis on differentiation was the logical extension of a policy stance that had gained ground during the late 1980s and represented a complete reversal of the Marxist-Leninist-inspired position on ethnic difference. On the basis of the claim that ethnic identity was inherently cultural, it was argued in 1989 that the assimilation of national and ethnic minorities must not only be stopped but indeed be reversed. This meant, for example, not only halting the suppression of minority languages, but preserving, and indeed actively reviving them. In this context, the constitutional changes were only the first step in a process leading to comprehensive legislation regulating the cultural autonomy of ethnic minorities in Hungary, introduced in the 1993 'Minorities Act'.⁹

A core element of the Minorities Act was the regulation of the requirements set out in the Constitution, i.e. minority political representation and the formation of local and national bodies for self-government. The Minorities Act stipulated the details of the system of separately elected local and national minority self-governments. That system aimed at a maximal protection of cultural interests of minorities without linking it to territorial autonomy. This was a logical development, given the way policy-makers perceived the ethnic structure of Hungary, that is to say, as an ethnically homogenous country containing only small minority groups that were territorially dispersed and had been strongly assimilated by the previous regime.

The Minorities Act, however, did not entirely effectuate all rights established by the Constitution. One problem that remained was the question of how to secure representation in Parliament. The Hungarian concern for a minority protection system was strongly influenced by the idea that a permanent differentiation in the rights of minority groups was needed in order to protect them. Special representation rights for the national legislature were a part of this. Minority representatives believed that a self-government system did not meet the requirements for secured representation in parliament that were set forth in the Constitution. A demand thus arose for a law that would secure the representation of the recognised minorities in the Hungarian National Assembly. But the topic remained subject to protracted discussion throughout the 1990s and until today the question remains unresolved (Krizsán 2000: 258; Gyori Szabó 1998).

⁸ The Act of Constitutional Amendment No. XXXI (1989).

⁹ Act LXXVII on the Rights of National and Ethnic Minorities (1993).

In the policy documents that have been key in the process of legal and political change described above, one can discern references to three important factors that presumably had an important degree of influence on the development.

1. *Immediate international concerns in the Danube region.* Within the Nationalities Board and Secretariat (*Nemzetiségi Kollégium és Titkárság*) at the end of the 1980s – which did the preparatory work on the Minorities Act – discussions were held on the question of minority accommodation in Hungary, explicitly linking it to a specific foreign policy concern. Hungary wanted to secure regional stability and peace, so it decided not to pursue border changes. But still it wanted to be able to protect the Magyar minorities in the neighbouring countries.¹⁰ A strong endorsement of minority rights therefore served as a moral justification for its stance towards the Magyar minorities in neighbouring Romania, Slovakia, Ukraine and Yugoslavia, whose fate it wanted to influence positively (Schöpflin 2000: 375). In the final version of the Minorities Act, an allusion to this motivation was included in the preamble:

[The] peaceful co-existence of national and ethnic minorities with the nation in majority is a component of *international* security. (Minorities Act, preamble, emphasis added)

Later in the 1990s the strong link between minority treatment within Hungary and its relationship with Hungarian minorities abroad was reflected in the establishment of governmental institutions that pursued the double purpose of supporting the Hungarians in the neighbouring countries and promoting cultural autonomy as a model for national minority protection. Especially under the Orban government (1998-2002) the issue of the Hungarians abroad moved to the centre of heated domestic and international political debates. Especially Romania and Slovakia were alarmed by the adoption in 2001 of the Act on Hungarians Living in Neighbouring Countries (also known as the 'status law'), which offers special economic and cultural benefits to Hungarians abroad. The Hungarian government's position paper on this matter, addressed to the Council of Europe Commission for Democracy Through Law (Venice Commission), illustrated once again quite clearly that Hungarian domestic policy options on minorities are closely tied to the country's concern for the Hungarians abroad. According to the report Hungary's dedication to values of identity protection

is proven not only by its efforts in bilateral relations and active participation in the recent or ongoing multilateral standard-setting and other international activities, but also by its internationally-recognised achievements in protecting national minorities in Hungary. The preservation and promotion of the identity of national minorities contribute decisively to the stability of the Central European region (...) [The] contemporary history of Europe and the Central European region in particular has justified the conviction and approach of Hungary. (Hungarian Government 2001, par. 1.3)

2. *The situation of Hungary's largest minority, the Roma.* This became clear in the period between 1995 and 2001, when new policy initiatives related mostly to the Roma. Government report V/3670, prepared by the socialist-liberal Horn government (1994-1998), argued that the minority self-government system was primarily designed to foster the 'integration' of the Roma. At the same time, however, it noted that:

The issue of the integration of the Gypsies into society is of great importance for the internal stability and economic well-being of the country and it is also one requiring

¹⁰ On the basis of census figures from the beginning of the 1990s it is believed that around 2.7 million people who identify themselves as Magyars (or 'ethnic Hungarians') live outside Hungary (Kocsis 1999).



the implementation of measures that are different from those of traditional minority policy. (Government of the Republic of Hungary 1997: 11)

In other words, the 'traditional minority policy', in which the preservation and stimulation of cultural difference was seen as a way to integrate the minority, now became regarded as insufficient for the Roma. As the deputy president of the Office for National and Ethnic Minorities (NEKH) described the issue in 1999:

The situation of the Roma minority is in many respects quite different from other minorities. The problems they face are not only of linguistic or cultural character, therefore they cannot be solved within the framework of [the] minority law and need some other measures as well from the central, regional and local governments. (Heizer 1999: 4)

In 1995, some additional resolutions were adopted specifically aimed at ameliorating the situation of the Roma. Between 1996 and 1998, the Horn government's focus of the Roma as a 'disadvantaged sector of society' became increasingly apparent.

After the 1998 elections, which brought Orban's right-wing liberal government to power, the position of the previous government on minorities was maintained, at least in its general wording and conceptualisation. On the one hand, the new government emphasised that the minority issue was to be regarded as a question of the protection of cultural diversity. On the other hand, 'the social integration of the Roma' was seen as 'both a question of minority policy and of social policy' (Hornung-Rauh and Fretyán 2000: 2). In the government programme, the Roma were not mentioned as a specific topic under the heading 'Ethnic minorities in Hungary' (where one would expect them to be mentioned). Instead, they were mentioned by name in the paragraph entitled, 'Those who need help'. Moreover, they were the *only* ethnic minority group mentioned under that heading. The continuation of the approach initiated by the Horn government showed that a broad coalition of political parties could agree with the way in which Hungary's policy towards the Roma developed. Government officials argued that there was a 'political consensus' (Doncsev 1999: 1). In the course of 2002 a number of new institutions with consultative functions on governmental level were introduced in order to deal specifically with the issue of the Roma. The establishment in 2003 of a new minister without portfolio responsible for equal opportunities is now viewed as an additional step in the direction of special governmental attention for the Roma.

3. The factor of EU enlargement. Compared to the saliency of the previous two factors in the key policy documents, EU accession and adjustment to EU demands seem much more marginal issues. With regard to the introduction of the Minorities Act in the beginning of the 1990s there is very little evidence to assume that the EU enlargement process was a strong factor. The sudden increase in interest in minority rights had less to do with demands from the EU than with the exemplary role Hungary wanted to play in the Danube region and its concern for the Magyar minorities in the neighbouring countries. The five annual reports published by the European Commission between 1998 and 2002 do not consider cultural autonomy as a necessary condition. Nevertheless, Hungary has repeatedly referred to its minority protection system, which is unique in Europe, for reasons of buttressing its bid for EU accession. Moreover, various Hungarian governments have pointed to the 'European' character of its minority protection system. A 1999 government report, for example, argues that the government programmes since the beginning of the 1990s 'have clearly undertaken to fully ensure the rights of minorities in accordance with European norms' (Hungarian Government 1999). On the other hand, the specific points on which the European Commission has repeatedly insisted were apparently never experienced by Hungary as imperative. For example, all

the Commission's annual reports about Hungary encourage the implementation of the specific rights it has granted, in particular the establishment of a regulation for the secured representation of minorities in parliament and the introduction of comprehensive anti-discrimination legislation. On both of these latter issues little or no progress has been made.

With regard to the issue of the Roma, it is clear that the EU did play a certain role. One government report explicitly mentions the role of the European Commission in putting the issue on the domestic agenda. However, the practical effect of the Commission's regular reports is not quite clear, and the Hungarian responses have often been defensive. In 2001, for example, Hungary's then minister of foreign affairs, János Martonyi, argued that the Romani issue had a 'European dimension'.¹¹ In other words, the issue was framed as being not only Hungary's responsibility. A 1999 government report argued that the reports by the European Commission did indeed draw government attention to the topic. But it added that:

the Gypsies will only be able to change their living conditions and achieve integration with joint social cooperation and as a result of long-term, decades-long efforts that will require considerable financial assistance from the European Union. (Hungarian Government 1999)

The Czech Republic

In the period between 1989 and 1992, the Czechoslovak policy on minorities was based on what was called in the Czechoslovak official documents the 'civic principle' (*obcanský princip*). This means that the Czechoslovak state sought to maintain a common (undifferentiated) citizenship status for all its citizens, and that the expression of ethnic difference was regarded as a private matter.

In contrast to Hungary's minority policy as it began taking shape in the beginning of the 1990s, Czechoslovakia in this period did not grant cultural autonomy to its ethnic minorities. This does not mean that these ethnic minorities were not officially recognised. Such recognition was, however, based on a model of citizenship in which all citizens share a common set of individual rights. In essence, this meant that the ethnic identity of individual people was deemed an inherent and valued element of their private lives. Recognition of ethnic diversity was not considered a basis for granting group-differentiated rights. The rights of minority citizens were protected on the basis of the Charter of Fundamental Rights and Liberties (*Listina základných práv a slobôd*), adopted by the Czechoslovak Federal Parliament on January 9, 1991, which through its articles 24 and 25 provided everyone the right to decide on his or her own ethnic identity ('nationality') and the right to form ethnic associations (Bugajski 1994: 299).¹² According to this document, the protection of ethnic minorities was subsumed under the protection of the human, civil and political rights of all citizens in Czechoslovakia, and did not have to be guaranteed by group-specific rights or measures of exemption.¹³

With regard to Czechoslovakia's most troubled minority, the Roma, the Federal Government on 3 October 1991, adopted the 'Principles of the government of the Czech

¹¹ Speech delivered on the occasion of launching the books *A Roma's Life in Hungary – Report 2000* and *Caught in the Trap of Integration – Roma Problems and Prospects in Hungary*, Budapest, February 1, 2001.

¹² Law No. 23/1991 Coll., which introduces the Charter of Fundamental Rights and Freedoms as a constitutional law of the Czech and Slovak Federative Republic.

¹³ This is one of the reasons why the organisations defending the interests of the Magyar minority strongly opposed this new piece of legislation. One of the problems for the Magyars was that the Charter defined the state as a national state of Czechs and Slovaks, a definition which according to them would reduce the existing rights of minorities. When the Federal Assembly rejected the amendment proposed by the Magyars, the Magyar MPs walked out of the final vote on the Charter (see Bugajski 1994: 331).



and Slovak Federal Republic on policy towards the Roma minority' (Government of the Czech and Slovak Federative Republic, 1991). This resolution did not reverse the general minority policy. The policy continued to aim at achieving socio-economic equality. It differed with the communist way of dealing with the Roma, however, in that the policy of undifferentiated citizenship was now *not* meant to lead to assimilation. Instead, Federal Resolution 619/1991 promoted the development of Romani identity – and not its destruction – as a crucial element in equalising the position of the Roma with the rest of society (Sulitka 1999: 226).

The new Czech Constitution, adopted in December 1992, reaffirmed the general acknowledgement of the rights and freedoms of individual citizens – including minority citizens – as stipulated by the Charter of Fundamental Rights and Freedoms. The Charter became a part of the constitutional order of the independent Czech Republic on 1 January 1993 (Government of the Czech Republic 1999).¹⁴ Precisely what this meant became clear when in 1994 a new institution was established in the newly independent Czech Republic that was meant to nurture the cultural life of the recognised national minorities: the Council for National Minorities (*Rada pro národnosti vlády České republiky*). In this governmental body, a selection of people from the different recognised national minorities (Magyar, German, Polish, Romani, Slovak and Ukrainian) who had been active in reputable minority organisations were brought together with delegates from the ministries, the parliament, and the office of the president. Together they acted as a consultative body for the government. The council made summary reports about the state of affairs of the minorities' cultural situation and put forward suggestions for policy improvement. Perusing the Czech policy documents, one finds references to two important factors.

1. *The situation of the Roma.* As in Hungary, this was an important factor in the development of minority policy in the latter half of the 1990s. In 1997, a process leading to a crucial policy change was initiated. Pavel Bratinka, President of the Council for Nationalities and Minister without Portfolio in the centre-right Klaus government, commissioned a group of experts to draw up a report on the situation of the Roma in the Czech Republic, taking into consideration the issues raised by the Romani members of the Council of Nationalities. An important role in the realisation of this report was played by the head of Bratinka's office, Viktor Dobal, who had been a former MP for the Civic Forum (OF) and had worked with Romani communities in Prague's 5th district in the beginning of the 1990s. In 1997, Dobal considered it high time to make the government sensitive to the issue of the Roma and saw in the political controversy surrounding the wave of Czech asylum seekers a chance to rouse Bratinka's interest for the matter. The government's interest in a research report on this topic increased conspicuously after complaints had reached the Czech Republic from countries that were receiving a growing number of Czech asylum seekers (for example, the United Kingdom and Canada).

These new policy initiatives on the Roma did not, however, affect the Czech government's general tendency to subsume the protection of national minorities under the broader umbrella of ensuring basic individual rights to all Czech citizens without reference to ethnicity. In accordance with the 'civic principle', members of national minorities were not granted special rights. However, it was asserted that, for the sake of social integration, it would be necessary to implement measures specifically designed to target the situation of *one* ethnically-defined group. As the council formulated it:

[E]stimates and practical experience indicate that certain problems of the Romani community are distinct from the problems of other [minority] groups, and thus

¹⁴ Law No. 2/1993 Coll., Resolution of the Czech National Council from December 16, 1992, on the declaration of the Charter of Fundamental Rights and Freedoms as a part of the constitutional order of the Czech Republic.

require a different approach. (Council for Nationalities of the Government of the Czech Republic 1997: Paragraph ii)

2. *Internationalisation of legal standards.* Towards the end of the decade a more 'multiculturalist' view on general minority policy gradually began to take shape. This was according to Petr Uhl, the former government commissioner for human rights, primarily the result of the Czech Republic's adherence to the Council of Europe's Framework Convention for the Protection of National Minorities.¹⁵ In July 2001, the Czech parliament adopted Act 273 'on the rights of members of national minorities', which was to some extent a deviation from the earlier 'civic principle' approach and the modest beginning of an approach of active protection of minority culture in public life, without however granting minorities self-government rights or far-reaching cultural autonomy. The general vision of the Czech government towards minorities was now that members of national minorities should be encouraged to develop their identity, and that in certain fields, such as education, official language use, and the promotion of minority culture, members of these minorities should be granted certain 'special' rights. Together with the administrative reforms on the local level introduced in 2000, this law enabled the establishment of appointed local and regional advisory committees for national minorities in areas where minorities have a sufficient percentage according to the census (10% in municipalities, 5% in regions and in Prague). The law was clearly the result of a compromise between those who advocated the introduction of special organs elected by members of minorities to govern their cultural affairs – such as Petr Uhl and various minority activists – and those who thought an extra law on minority protection was superfluous.¹⁶

Although the Council of Europe's Framework Convention seems to have had a clear impact on the decision to introduce this law, less clear is whether the EU requirements had any influence on the development. Although the Commission's 1998 and 1999 annual reports do not mention the need to develop a new law on national and ethnic minorities, this is precisely what the Czech Republic did in the period between 1998 and 2001. It did, however, not engage in developing a unitary anti-discrimination legislation as was demanded by national and international non-governmental organisations. Although one might understand the EU Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between individuals irrespective of racial or ethnic origin as a further motivation to introduce anti-discrimination legislation, the provisions relating to this subject continue to be scattered in various regulations (Government of the Czech Republic 2002).

The connection between the EU enlargement process and Czech policy development is much clearer in the case of the Roma. References to the Roma have been made by the European Commission, and the Czech government has referred to this pressure in its documents proposing new Romani policy. In 2000, the Czech government justified a group-specific treatment, arguing that the situation of the Roma has an important socio-economic aspect that needs to be addressed separately (Government of the Czech Republic 2000). It promised to devise separate policies specifically meant to address the situation of the Roma. The political will to go forward with this is arguably connected to one aspect of the international situation. A Czech report by the government

¹⁵ Personal interview with Petr Uhl, 30 May 2003.

¹⁶ There are other elements in the law that point to political compromise. Paragraph 2 of the law ('Definition of basic concepts') defines a national minority as 'a community of citizens who live on the territory of the present Czech Republic and as a rule differ from other citizens by their common ethnic origin, language, culture and traditions'. However, as has been noted by Hofmann (2003), for the provisions of the act that relate to privileges such as the right to multilingual topographic names for localities (Section 8) or the right to use the language of the national minority before public organs and courts (Section 9), the law introduces the extra criterion of 'living traditionally and for a long period of time' on the territory of the Czech Republic.



commissioner of human rights hints at the government's fear of further migration of Czech asylum seekers to the EU as an important factor in the construction of new policy on Roma:

It can be expected that the result of this social edification of the hitherto marginalized Romany community and the gradual formation of an emancipated Romany minority will lead to a perceptible fall in Romany migration to European Union countries. (Czech Government Commissioner 2000: 7)

Poland

As in the cases of the Czech Republic and Hungary, Polish policies towards minorities during the communist period were generally aimed at direct assimilation with limited possibilities for the preservation of some essential minority traditions through official and state-led minority associations. There was a historical factor that played an important role in the Polish attempts to minimise ethnic differences. As a result of Nazi exterminations during World War II and the border changes and relocation of population groups after the war, Poland had become more ethnically homogenous than before. Homogeneity was considered as one of the important achievements of the new state (Lodzinski 1999: 2). The communist leaders did not want to question borders again. In their view, the best way to achieve territorial stability was to discourage all identifications with populations in neighbouring countries.

This view changed at the end of the 1980s. Already in 1989, the foundation of a new attitude towards minorities was laid. Both Lech Walesa and Prime Minister Tadeusz Mazowiecki asserted in the media that national minorities should feel 'at home' in Poland and that the development of their languages and cultures should be supported by the state.¹⁷ This was an important reversal of the general government stance on minorities, but international and geopolitical considerations still played an important role in policy-making towards minorities. Indeed, the sudden recognition of minority identity in Poland is explicable precisely in light of the changing international environment. Hoping that it would reduce or even prevent disputes about border changes politicians were more inclined to recognise minority groups than they were during communism. The end of communism meant first and foremost a symbolic affirmation of minority rights that found resonance in a few new institutions and laws. In 1989, a standing Committee on Ethnic and National Minorities (*Komisja Mniejszosci Narodowych i Etnicznych*) was established in the Polish lower house (*Sejm*). A new law on associations gave minority citizens the freedom to organise themselves on an ethnic basis. In the period between 1991 and 1993 a number of parliamentary election laws were adopted through which the political participation of minority organisations was made easier (exemption on threshold rules). Furthermore, the 1991 Education Act and a 1992 resolution by the minister of education provided the basis for the introduction of proactive measures to protect minority pupils by enabling under certain conditions the organisation of additional classes in a minority language.¹⁸

Yet in the years following, no other major policy initiatives were taken. For most of the 1990s Poland's ruling politicians were not visibly interested in introducing new policies for dealing with the demands of national minorities. The low concern for minorities is perhaps reflected in the timing of Poland's adoption of international instruments. Of the three countries discussed in this paper, Poland was the last to ratify the Framework

¹⁷ 'Lech Walesa do wyborców w sprawie mniejszosci', *Gazeta Wyborcza*, No. 6, May 15, 1989. Mazowiecki's speech is quoted by the Polish Government (2002a: 7).

¹⁸ *Dziennik Ustaw* No. 95, 425; *Dziennik Ustaw*, No. 34, 150.

Convention for the Protection of National Minorities.¹⁹ The most conspicuous developments of the latter half of the 1990s were the establishment of an Interdepartmental Group for National Minority Issues (*Międzyresortowy zespół do spraw mniejszości narodowych*) within the government administration (1997) and a Division of National Minorities (*Wydział mniejszości narodowych*) at the Ministry of Interior and Administration (2000). The former commission gathers the representatives of various governmental departments, but unlike comparable institutions in the Czech Republic and Hungary it does not include minority representatives. The latter is a ministerial body aimed at raising the government's activities in the area.

In general, however, it seems that for most of the 1990s Polish policy-makers believed that minorities were sufficiently protected. The Polish Constitution of 1997 together with the above-mentioned regulations was thought to provide a satisfactory legal basis for minority rights protection. In contrast to Hungary and the Czech Republic, Poland did not introduce, and has not done so until today, a single legislation to guide the way in which national minorities should be protected. Nevertheless, it should be remarked that there have been some particular changes. There are two indications that towards the end of the 1990s in the beginning of years 2000 pressure for new initiatives had a growing impact on domestic policy. In both, however, the guiding role of the EU's enlargement process must be regarded as minimal.

First, in 1998, the Committee on Ethnic and National Minorities prepared a draft for a 'minorities law' – which is currently again under discussion. This draft act not only contains provisions to forbid discrimination and assimilation. It also makes specific forms of affirmative action possible; mandates the establishment of a Council for National Minority Affairs that would become responsible for the implementation of government policies towards minorities; and increases the possibilities for utilising minority languages in the public sphere in areas inhabited by sizeable minority groups. In May 2002, the government refused to adopt the draft law in its then current form, even though it was admitted that the legal proposal was a legitimate response to a need resulting from the country's ratification of the Framework Convention. According to the government, the proposal contained a number of fundamental problems. For example, the proposal did not specify the criteria for membership of a national or an ethnic minority, nor did it state precisely what conditions should be present in a municipality in order to mandate the introduction of special protection measures for the use of minority languages. Furthermore, the government feared that the organisation of separate minority education as proposed in the draft law will lead to the isolation of minority pupils from mainstream education (Polish Government 2002b).

Secondly, in contrast to the general reluctance of the Polish government to introduce far-reaching minority rights policies on minorities, the government showed increased interest in designing a programme targeted specifically at the relatively small Romani minority. In February 2001, the government adopted a group-specific project developed by the Minister of the Interior and Administration, aimed at tackling the problems of the Romani minority in the Malopolska region. The programme was meant to promote the awareness of Romani identity and fund initiatives that are related to the public image of Romani culture. Furthermore, it aimed to support initiatives that seek to push back unemployment, enable increased participation of the Roma in mainstream education, and improve housing conditions, health and security. According to the government report, this initiative was only the beginning of a much larger policy strategy in order to deal with the marginal situation of the Roma. At the time of writing, the programme is still confined to one region and its implementation is still ongoing. The ambition, however, is

¹⁹ Poland signed the Framework Convention in 1995, just as Hungary and the Czech Republic, but ratified it only in 2001. Hungary's ratification dates back from 1995 and the Czech Republic's from 1997.



to gather experiences from this one region in order to achieve better results in future programmes that will target other regions (Polish ministry of the interior 2001: 7).

With regard to EU pressure, it is clear that Poland did not receive any strong censure on minority protection prior to 2000. In the European Commission's report from the year 2000 the predicament of the Roma is mentioned for the first time. Significantly, the Polish policy programme for the Roma in Malopolska dates from February 2001 and might therefore be seen as a response to the Commission's demands. But the Polish response is also telling in another way: it includes references to demands of individual EU countries connected to the fear of increasing migration of Polish Roma to the west:

The situation of Roma in Poland is a matter of interest to European institutions and the European Union countries, particularly those which are the destination for Polish Roma seeking to acquire the status of refugees (e.g., the United Kingdom and Finland). The Government of the Republic of Poland cooperates with specialized agencies of the Council of Europe and the European Union countries in solving Roma's problems. (Polish Ministry of the Interior and Administration 2001: 4)

Conclusion

It should be clear from the above that the international environment has been one of the factors in the development of minority policies in EU candidate member states in Central Europe. As Smith (2002) argues, international organisations have played an important role in shaping the post-communist identity politics of Central and Eastern Europe, and the EU is certainly one of those organisations.

The material examined for this paper, however, also suggests that one should be careful not to overestimate the impact of the pressure exerted by the EU and, more specifically, the role of the EU in guiding the direction in which minority policies developed in Central Europe. Central European states have indeed adopted new policies on minority protection, and demands from the European Commission have been referred to as important factors justifying changes. However, this paper also argues that enlargement was only one of the factors, and far from always the most important one. Throughout this paper I have pointed out three elements that put the power of the EU's enlargement strategy into perspective. First of all, Central European states have utilised the international context in order to deal with short-term individual interests beside EU accession. For example, the introduction of Hungary's system of minority protection was important for regional strategic considerations, although afterwards it has been portrayed by Hungarian policy-makers as a crucial step in the country's 'return to Europe'. Secondly, since there is a lot of diversity with regard to minority policy among the current EU member states, candidates in Central Europe were given room for political manoeuvring and could give ample attention to domestic factors. EU requirements have often suggested that granting collective rights for ethnic groups in future member states is a desirable policy course, but has not demanded such a policy from its current members. Thus, one could argue that the 'EU-isation' of minority rights policies has not been more profound in Central Europe than it has been in the current member states. Thirdly, it is equally problematic to describe the policy evolution as intrinsically linked to the spreading of *norms* of minority protection. Although it is clear that minimal standards set by the Council of Europe had a certain influence, such norms of minority protection remain contested among EU members as well as among candidates. There is insufficient evidence to conclude that the EU has done much to spread these norms. What is clear from the developments described is that individual EU member states have been able to push the conditionality agenda in particular directions, not depending on consensual norms, but on their own concerns and interests. For example, the shift from a focus on territorially concentrated ethnic minorities (at the time of the introduction of the

Copenhagen criteria) to a focus on the predicament of the Roma over the course of a few years time seems to reflect increased concerns in the EU about the influx of asylum seekers and a decreasing concern about territorial conflicts in the region.

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