VARGA ZS. András

Sovereignty, Identity and Autonomies in Hungarian Public Law

As any constitutional issue, the relation between the majoritarian part of a political nation and national or ethnic minorities can be described from sovereignty, as starting point. Sovereignty means the unquestioned power exercised in a given area and over a given population. If constitutionality – and legitimacy as one of its core principles – is accepted as an unconditioned feature of a state, then it should also be accepted that a state is a historical phenomenon: it is linked to the history of its nation or nations. On other hand the subject of constituent power, the nation is the source of sovereignty, consequently an existing constitution, legal order cannot be understood and interpreted without its linkage to the sovereign nation. It can be concluded that a constitution should accept as its foundation and to protect not only the political nation as a whole but it should also accept national or ethnic minorities as legal entities. This cannot be realised otherwise than by legal autonomy of national or ethnic minorities.

BENDA Vivien - DABIS Attila - WÁGNER Tamás Zoltán

European Ways of Direct Democracy, with a Focus on the European Citizens' Initiative

Autochthonous national minority communities of the European Union have been struggling for their fundamental rights for decades. Despite the unwillingness of the European institutions to engage in issues pertaining to minority rights, the European Citizens' Initiative (ECI), as a new legal institution of direct democracy, grants these communities the opportunity to channel their proposals into the decision-making procedure of the European Union. First, the study introduces the role of the European Citizens' Initiative in the

context of direct democracy, and outlines the attempts aiming at the review of the institution. Then, it analyses those initiatives that wanted to affect the situation of traditional national communities, namely the Minority SafePack and the ECI for National Regions. The purpose is to demonstrate the effects of these initiatives to the Union policies concerning national minorities and to the legal institution. In our view, the decision-making procedure of the European Union shows limited interest in dealing with initiatives coming from the European demos, bottom-up, especially if the subject-matter relates to minority protection. Nevertheless, the lawsuits that were lodged in relation to ECI's contributed and will contribute in the future to the development of this legal institution, as well as its application by the European Commission.

MANZINGER Krisztián

Aspects of the 2019 European Parliamentary elections related to nationalities

The 2019 European Parliamentary (EP) elections brought changes for national minority parties, the most significant one being the failure of the Hungarian minority politicians to enter the EP, which might weaken Hungarian minority advocacy in Strasbourg. Deterioration in mobilizing electorate shall be a warning signal for Hungarian minority politicians in Romania too, and should lead to reconsider the foundations of Hungarian minority politics in both Romania and Slovakia. The strengthened presence of secessionist Catalan, Flemish and Scottish forces in the EP and their more or less similar intents might be an unpleasant development for those aiming for a framework for the protection of national minorities within the EU. It also might give a strong con to those rejecting such European framework as they can argue that strengthening national minorities could undermine the territorial integrity of the Member States.

HOLLÓSI Gábor

Connections Between Czechoslovakian Territorial Demands and the Planned Deportation of Hungarians from Czechoslovakia at the Paris Peace Conference

With the Paris Peace Treaties signed on 10 February 1947, the territory of Hungary shrank further vis-a-vis the Treaty of Trianon. The country lost three villages located near Pozsony. The intention of Czechoslovakia was to obtain the Hungarian villages of Dunacsún, Horvátjárfalu, Oroszvár, Rajka and Bezenye, however, in the end, Hungary was forced to cede only the first three. This study not only presents the historical context of this decision, but also points out its connection with the one-sided Czechoslovakian plan to relocate the Hungarian minority. The Czechoslovakians were not satisfied with the Population Exchange Agreement of 27 February 1946; thus, they sought the displacement of a further 200 thousand Hungarians at the Paris Peace Conference. This request was rejected mainly due to American pressure, while concurrently the territory that Hungary had to cede to Czechoslovakia was also reduced by half.

HORVÁTH Attila

The Beneš-decrees, and the anti-Hungarian measures connected to them (1945-1949)

The peace treaties concluded after World War I created an artificial state called Czechoslovakia – based on economic and strategic aspects – which disintegrated due to ethnic conflicts. The Czechoslovakian-Hungarian border was based on strategic, economic and transport aspects instead of ethnic ones. Consequently, more than 1 million ethnic Hungarians became Czechoslovakian citizens. By this treaty, the biggest border minority of Europe was created, where Hungarians formed more than 90% of the population. After World War II, the Czechoslovakian government used Hungarian and Ger-

man minorities as scapegoats. False accusations were formulated against them based on collective guilt in order to create a homogenic Slavic nation-state by means of deporting the entire Hungarian and German population. To achieve this goal, several unconstitutional and inhumane laws were approved by Edvard Beneš, the president of Czechoslovakia. 143 presidential decrees were adopted between 14 May 1945 and 27 October 1945 respectively. 13 decrees affected directly, and 20 other decrees indirectly the Hungarian and German minorities who deemed to be collectively guilty. Based on the Beneš-decrees, Hungarians in Czechoslovakia were deprived of their properties and fundamental rights. Hundreds of thousands of people were deported from their homeland. Unfortunately, most of these people did not receive adequate compensation up to now.

HORVÁTH Attila

The Unlawful Confiscation of Immoveable Properties Belonging to the Hungarian Residents of Romania

As a consequence of the Treaty of Trianon, 102.813 km^2 were ceded from Hungary to Romania where 31,78% of the population – 1.662.000 people – were Hungarian. The Romanian governments conducted forced assimilation against the national minorities in the country, and land reform was one of their instruments. The Romanian propaganda emphasised that the aim of the reform was to abolish latifundiums, in order to create a fair land division. In fact, latifundiums in great numbers were only in Partium. By contrast, the main type of farming in Transylvania was the small holding. There were 717.000 small holdings under 100 acers and there were only 965 latifundiums above 1000 acers (partially owned by legal persons). Taking into account the proportion of the land division, only Belgium and Bulgaria had more favourable land structure than Transylvania. In this sense, the Romanian governments did not want to remedy the social problems but to deprive the Hungarians and the churches of their immoveable properties. Consequent-

ly, every land was confiscated which was owned by Hungarians. Even if there was no entitled person for that. These properties were kept for state reserve and were later handed to natural persons of Romanian ethnicity through several techniques. After World War II, when the Soviet-style dictatorship was formed in Romania, all the remaining lands from the Hungarian minority were confiscated (although the citizens of Romanian ethnicity also shared this fate). Unfortunately, the exploration of the past and the remedy of the committed legal harms did not fully take place after the fall of communism.

KIS Júlia

Restitution in Transylvania

This article is discussing the main problems and obstacles in the Romanian property restitution proceedings. As a condition of its NATO accession, Romania guaranteed the restitution of property that was unlawfully confiscated by the central state during the communist era. Our main focus was to present the state of the Transylvanian restitution process. The article, thus, provides a brief summary of the history of restitution, referring to all applicable laws (including international case law); the stage of restitution of immovable property in Romania; as well as, the specific problems that may occur in the process. The main shortcoming of the system we identified, is that the process is very slow and inefficient. The article points out that authorities are likely to delay solving the cases from different reasons. In most cases, this result is due to the impossibility of the heirs to prove their right for restitution. Another issue is that more and more „finalized" restitution proceedings are reopened and annulled, which further diminishes the effectiveness of this procedure.

VINCZE Gábor

The Nationalisation of Assets Belonging to Hungarians in Romania, and the Later Destiny Thereof

A significant economic property existed in the historical Transylvania, East-Hungary and in the Banat region (territories awarded to Romania by virtue of the Treaty of Trianon), composed of industrial, commercial and mining companies, as well as financial institutions or cooperative assets belonging to Romanian and Hungarian natural and legal persons. The Romanian State tried to expropriate and nationalise as many Hungarian property as possible. To a lesser extent, these aspirations were already successful between the two world wars. After World War II and King Michael's Coup on 23 August 1944, Bucharest considered that the time has finally come to fully deprive members and companies of the Hungarian minority of their material assets. The Romanian-Soviet ceasefire agreement, signed on 12 September 1944 in Moscow, created the legal basis for this. However, the agreement's provisions were misinterpreted in bad faith and extended to Romanian natural and legal persons as well. The value of the Hungarian properties that were nationalized based on the CASBI law was estimated to reach the value of the total amount of reparation's payable to Hungary (300 million dollars). The Hungarian People's Union of Romania, which protected the interest of the governments of Budapest and Hungarian minorities in Romania, aspired to recover the assets of the natural and legal persons from Romania and Hungary. A small part of the Romanian citizens regained their property in 1947, only to lose it again in the framework of the general nationalisation that commenced in 1948. The Hungarian State also tried to come to terms with their Romanian counterparts in the case of unlawfully nationalised properties but these efforts failed. Finally, Romania and Hungary concluded a general property law convention in order to settle the long-standing issue. By doing so, the Hungarian State gave up significantly bigger financial demand than Romania against Hungary.

BARTA Leila

The Problematics of Dual Citizenship, in particular as regards Regulations in Slovakia and Ukraine

The study revolves around the regulation of dual citizenship in Slovakia and Ukraine, and the repercussion thereof on national minorities. The dilemma of the analysis is to assess the detrimental impact of „insufficient" regulations pertaining to dual citizenship on Hungarians living behind the state borders of Hungary. After the theoretical introduction, the writing presents the regulations applying to dual citizenship in Ukraine, Slovakia, and Hungary respectively, referring also to the practical advantages that dual citizenship can offer for minority Hungarians. The main finding of the study is that dual citizenship contributes to maintain Hungarian minority identity in the said countries, the effectiveness of which, however, depends on domestic approaches to the legal institution of dual citizenship, as well as from the implementation of relevant international- and bilateral treaties.

LUKÁCS Dávid

The Beneš-decrees in light of Law nr. 503/2003 on Restitution in Slovakia, as well as Laws of the European Union

The essay pertains to the examination of the Benes-decrees and the 503/2003 act of compensation in the framework of the laws of the European Union. The first chapter of the paper introduces the historical context of the issue, that reach back to the undemocratic regimes of the XX. century and presents the methods of the Beneš-decrees that aimed to disenfranchise members of the Hungarian minority community of the newly formed state of Czechoslovakia. Following the historical introduction, the essay analyses

the legal compatibility of the Benes-decrees with the legal system of the European Union. The examination indicates that the Slovakian agricultural act of compensation (503/2003) excluded all non-Slovak citizens from the restitution process. This measure prevented the effective legal remedy for large group of EU citizens, predominantly displaced Hungarian and German citizens whose property was confiscated under the auspices of the idea of collective guilt enshrined in the Beneš-decrees. Consequently, the mentioned act of compensation violated one of the fundamental inventions of the acquis communautaire; the free movement of capital. The end of the essay points out some of the practical actions that can be taken within the EU's legal system, in order to solve this issue.