

MINORITY PROTECTION

Joint Special Issue
of the Institute for the Protection of Minority Rights
and the Faculty of Law and Political Sciences of the Pázmány
Péter Catholic University

Published on the occasion of the centenary
of the Treaty of Trianon

Budapest

2020

President of the Editorial Board:

Gábor Kardos (Budapest)

Members of the Editorial Board:

Gyula Bándi (Budapest)

Barna Bodó (Temesvár)

Antal Bozóki (Újvidék)

György Csóti (Budapest)

Miklós Duray (Pozsony)

Balázs Gerencsér (Budapest)

Laura Gyeney (Budapest)

Ildikó Orosz (Beregszász)

Editor-in-chief:

Attila Dabis

Editors:

Vivien Benda, Tamás Wágner

Published by the:

Institute for the Protection of Minority Rights

Responsible Publisher: György Csóti

1052 Budapest Vármegye str. 7.

Telephone: +36 1 79 86 530

Homepage: <http://www.kji.hu/>

E-mail: jogvedo.intezet@kji.hu

Cover: Comedia Reklámügynökség Ltd.

Layout editor: Andrea Szakaliné Szeder

Press: Printingo Kft.

HU ISSN 2676-8992

CONTENT

Preface

Trianon: “Vae Victis” Again	5
-----------------------------------	---

Developments of the Right of Peoples to Self-determination Over the Past Century

Daniel Turp: Self-Determination, the Right of Peoples to Decide and the Obligation of States to Negotiate	11
Xabier Ezeizabarrena: Minority autonomy and the internal aspects of self-determination in the EU: Brief comparative approach from the Basque Country	25

Trianon 100 – Centenary of a Decision that Reshaped Europe

Lothar Höbelt: No “Road to Canossa” and no “Death Warrant”: The End of Austria-Hungary Revisited.....	55
Tibor Glant: The Inquiry and the Paris Peace Conference: American Preparations for Peace and the Future of Hungary, 1917-1920.....	85
Patrik Szeghő: Yugoslav Unity and the Dissolution of Austria-Hungary.....	125

Lasting Consequences of the Paris Peace Conference

László Komáromi: The Question of Territorial Plebiscites after the first World War with Special Regard to Hungary	169
István Szabó: The Impact of Trianon on Public Law Traditions	189

Barna Bodó: Between Yesterday and Tomorrow – What Happened to the Memorials in Banat After 1918	209
--	-----

Minority Rights Then and Now

Gábor Kardos: Trianon and International Law: Arguments of Hungarian Scholars of International Law against the Treaty of Trianon	297
---	-----

Laura Gyeney – Ágoston Korom: Restitution for Immovable Property: the Beneš-Decrees from the Perspective of European Union Law – the Legal Status of Claimants for Confiscations prior to 1948 on the Grounds of the Principle of <i>lex specialis</i>	315
--	-----

Abstracts	339
-----------------	-----

PREFACE

TRIANON: “VAE VICTIS” AGAIN

The wars of the Modern Age have been nothing but a blatant confession of impotence. Because, unlike the armed attacks of earlier times – which were pure wholesale robberies – those of our times have been the culmination of a dual inability to coexist: both commercially, as well as intellectually.

Unfortunately, the respective peace treaties that concluded these wars have been nothing more than the written embodiment of the incompetence that was so cruelly displayed before on the battlefields. If morality and piety were trampled on with weapons in hand, a legal disguise was put on the abuses of the combatants with a pen in hand.

Within the above panorama, World War I – the so-called “Great War” – deserves a prominent place. Not only because it profoundly changed the “*modus vivendi*” and the course of humanity that the great powers of the white race had established in the previous five centuries, but because it reimposed the law of the strongest as the highest moral criterion. And this was a law that had already plagued the coexistence – or should we say the survival – of peoples in the past.

Naturally, the peace treaties that sealed the end of the hostilities of World War I – from that of Versailles to that of Trianon – were also abusive pathways towards the decline of morality and justice. General peace for the future was not sought, but rather the immediate satisfaction of the victors ... And these treaties were in too many cases a reprint of the Roman “*vae victis*”.

In the specific case of the decisions concluded in Trianon, the very visible desire for revenge was compounded by an already anachronistic arrogance of the victors. It serves as a clear and obvious lesson, many

decades and armed conflicts away that the victors built a post-war world according to their wishes and not according to historical and ethnic realities. Something similar happened in the case of other treaties with the Balkans, Central Europe and the third world, all of whom were the victims of this political “diktat”.

The subject is too broad to discuss it in detail here and now, but it is precisely here and now where it is necessary to point out some of the gravest inconsistencies in these agreements. The great powers of that time, led by France, created and dissolved a defeated Europe as if it was a doll's house. Nations were created – Czechoslovakia, Yugoslavia, etc. – at the convenience of the winners and others were destroyed; first and foremost, the Austro-Hungarian Empire.

In Trianon, the “*vae victis*” prevailed against all historical evidence and all political foresight. Hungary had been the most important military factor in the Empire and, consequently, was the country most punished. In reality, one should not speak of the Treaty of Trianon but of the “diktat” of Trianon. Because here the new borders were drawn as arbitrarily as in the African or Asian colonies, seeking, above all, punishment. Minorities were not thought to be much more than parts of a map, nor were ethnic realities thought to be essential in achieving social and political stability. Because at that time the political concept of minorities was so close to that of exotic folklore that more than one ended up confusing them. Especially when that confusion suited the interests of the self-righteous victors of that moment.

Of course, if the actors of the peace treaties of the “Great War” – from Versailles to Trianon – are viewed in the framework of humanity's intellectual evolution, they cannot be condemned with the harshness they seem to demand. Throughout the evolution of history, humanity has always been painfully slow when it came to assuming and developing ideas and techniques. Neanderthals – 400,000 years ago – were already capable of walking up to 60 km in a day, if necessary. But technical advances that they invented as part of their travels (weapons, refining stone tools, hunting and fishing techniques, etc.) were only spread and generalized at the speed of 3 km per year!

In this context, a farsighted and just Trianon, instead of an avenging one, would have constituted an unnatural exception. Justice, tolerance, solidarity and piety are not primary elements of nature, but fruits of the human mind... the expansion of which began millions of years ago at a considerably slower pace than 3 km per year!

Barcelona, 28 October 2020

Valentín Popescu
Independent Journalist
Spain

Chapter I

Developments of the Right of Peoples to Self-determination Over the Past Century

1. **Daniel Turp:** Self-Determination, the Right of Peoples to Decide and the Obligation of States to Negotiate
2. **Xabier Ezeizabarrena:** Minority Autonomy and the Internal Aspects of Self-determination in the EU: Brief comparative Approach from the Basque Country

*Daniel Turp**

SELF-DETERMINATION, THE RIGHT OF PEOPLES TO DECIDE AND THE OBLIGATION OF STATES TO NEGOTIATE

1 Introduction

The fundamental and collective right of self-determination of peoples continues to be the subject of great debate. Around the world, the right of self-determination has been and continues to be claimed by many independence and autonomist movements struggling to make their voices heard on the international stage. Although it is practically unthinkable to make an exhaustive list, such groups are active in: the Åland Islands (Finland); Ambazonia (Cameroon); Bougainville (Papua-New-Guinea); Brittany, New Caledonia and Polynesia (France); Casamance (Senegal); Catalonia, Galicia and the Basque Country (Spain); the Chagos Archipelago, Northern Ireland, Scotland and Wales (United Kingdom); Chuuk (Federated States of Micronesia); Flanders (Belgium); Greenland and the Faroe Islands (Denmark); Hong Kong and Tibet (China); Kabylia (Algeria); Kurdistan (Iraq, Iran, Syria, Turkey); Lombardia, Sardinia, South Tyrol and Venetia (Italy); Porto Rico (United States of America); Quebec (Canada); Szeklerland (Romania); and, Western Sahara (Morocco).¹

While no one can predict today what fate will befall these various movements, their sheer number alone testifies to the ever-renewed

* Professor of International and Constitutional Law - Faculty of Law, Université de Montréal, daniel.turp@umontreal.ca.

¹ For a detailed analysis of the claims of many of the aforementioned peoples, see Turp, Daniel - Sanjaume-Calvet, Marc (eds.): *The Emergence of a Democratic Right of Self-Determination in Europe*. Brussels: Centre Maurits Coppiters. 2017. [online], available from: http://uniset.ca/microstates2/Coppieters_5282_selfdetermination_final.pdf, accessed: 24. 11. 2020.; and Griffiths, Ryan: *The State of Secession in International Politics*. In: *E-International Relations*, published: 23. 09. 2016 [online], available from: <http://www.e-ir.info/2016/09/23/the-state-of-secession-in-international-politics>, accessed: 24. 11. 2020.

relevance of the principle of self-determination.² From the 20th to the 21st century, there has been a significant shift towards the right of self-determination, which comprises a right of decide (I), accompanied by an obligation of States to negotiate (II).

2 Self-determination and the right of peoples to decide

The right of peoples to self-determination has been acknowledged and enacted in international instruments as important as the *Charter of the United Nations* and the *United Nations Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*.³ According to these international instruments, the right of self-determination is universal in nature as it is granted to “all peoples”. Such an interpretation is confirmed by common article 1 of the *International Covenants on Human Rights*⁴ which affirms that “[a]ll people have the right of self-determination” and that “[b]y virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”. With regards to the determination of a political status, the *Declaration on Friendly Relations* states that “the establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence

² Such relevance is also illustrated by the theoretical debates surrounding the right of self-determination and especially the right of secessionist self-determination, notably through the philosophical and political essays of Buchanan, Allen: *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Québec*. New York: Basic Books, 1991.; Hannum, Hurst: *Autonomy, Sovereignty and Self-Determination - the Accommodation of Conflicting Rights*. Philadelphia: University of Pennsylvania Press. 1996; and Seymour, Michel (dir.) : *Repenser l'autodétermination interne*. Montréal: Les Éditions Thémis, 2016.

³ G.A. Res. 2625 (XXV), UN GAOR, 25th Sess., UN Doc. A/8082 (1970) [hereinafter *Declaration on Friendly Relations*].

⁴ See *International Covenant on Economic, Social and texts Cultural Rights*, (1976) 993 United Nations Treaty Series [UNTS] 3 and the *International Covenant on Civil and Political Rights*, (1999) 997 UNTS 171 [hereinafter *International Covenants*].

into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people”.

There have been attempts to give a restrictive interpretation to the right to self-determination and to limit the ambit of such right. For colonial peoples, all forms of political status could be achieved through the exercise of their right of self-determination, including the right to external self-determination- i.e., to become sovereign and independent States.⁵ Such right of external self-determination could also be available to those peoples who are comprised in sovereign and independent States that, to quote the safeguard clause of the *Declaration on Friendly Relations*, are not “possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour”. In this case of “remedial secession”,⁶ sovereign and independent States would not be seen as conducting themselves in compliance with the principle of equal rights and self-determination of peoples and any action which would dismember or impair, totally or in part, their territorial integrity or political unity would not be considered in violation of international law. With regards to free association or integration with an independent State or the emergence into any other political status freely determined by a people as modes of implementing the right of self-determination, and notably the right to autonomy within a State,⁷ such modes would be open to colonial as well as non-colonial peoples.

⁵ The Committee on Decolonization (Committee of 24) of the United Nations considers that 17 Non-Self-Governing territories are vested with the right of self-determination and can establish sovereign and independent States: American Samoa, Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands (Malvinas), French Polynesia, New Caledonia, Gibraltar, Guam, Montserrat, New Caledonia, Pitcairn, Saint Helena, Tokelau, Turks and Caicos Islands, United States Virgin Islands and Western Sahara: see <http://www.un.org/en/decolonization/nonselgovterritories.shtml>, accessed: 24. 11. 2020.

⁶ On the concept of remedial secession, see: Vezbergaitė, Ieva: *Remedial Secession as an Exercise of the Right of Self-Determination of Peoples*. Thesis, Budapest, Hungary. 2011;

⁷ See: Gilbert, Geoff: *Autonomy and Minority Groups: A Right in International Law*. In: *Cornell International Law Journal*, Vol. 35. 2002, 307-353.; and Ghai, Yash: *Introduction: Nature and Origins of Autonomy*. In: Ghai, Yash - Woodman, Sophia (eds.): *Practising self-government. A comparative Study of Autonomous Regions*. Cambridge: Cambridge University Press. 2013, 1-31.

Although some publicists who continue to support the idea that the right of self-determination - and notably the right to establish a sovereign and independent state - belongs only to colonial or oppressed peoples,⁸ in our opinion, the views expressed by the International Court of Justice have contributed to restoring the original scope of the right of self-determination, including the right to establish a sovereign and independent state enshrined in the *Charter of the United Nations* as interpreted by the *Declaration on Friendly Relations* and in the *International Covenants on Human Rights*, comprising both the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*, and which it must, in accordance with article 26 of the *Vienna Convention on the Law of Treaties*, perform in good faith.

International practice tends to show that attempts to contain this right to self-determination to the colonial sphere and to refuse non-colonial peoples the benefit of independence or autonomy has not been successful during the last part of the 20th century and the beginning of the 21st century. The international community witnessed the accession to independence of Eritrea or Eastern Timor, as well as of the republics of the former Soviet Union or Yugoslavia. It also saw the United Kingdom recognize the right of the inhabitants of Northern Ireland to determine their own future and to decide, if such was the will of the majority, that Northern Ireland should continue or to cease to be part of the United Kingdom.⁹ After the second independence referendum held in Québec in 1995 which and the acknowledgment of its the Supreme Court in *Reference re Secession of Quebec*¹⁰ “right of Quebec to pursue secession”, the Parliament of Canada also accepted that Québec could “cease to be part of Canada” in a *Clarity Act*¹¹ adopted in response to the *Quebec Secession Reference*.¹²

⁸ See Crawford, James: *The Creation of States in International Law*. Oxford: Oxford University Press, 2nd ed. 2006.; and Radan, Peter: Secessionist Referenda in International and Domestic Law. In: *Nationalism and Ethnic Politics*, Vol. 18. 2012, 8-21.

⁹ See the *Northern Ireland Peace Agreement*, 10 April 1998, art. 2 (Constitutionnal issues).

¹⁰ [1998] 2 Supreme Court Reports [S.C.R.] 217 [hereinafter *Québec Secession Reference*].

¹¹ Statutes of Canada (S.C.), 2000, c. 26.

¹² For a detailed analysis of the right to decide in a Québec context, see: Turp, Daniel:

Furthermore, the *United Nations Declaration on the Rights of Indigenous Peoples*¹³ affirmed in 2007 the right of such peoples to self-determination. With the support of several member States in the international community, Kosovo unilaterally declared its independence in 2008, and in an advisory opinion of 22 July 2010 the International Court of Justice determined that this declaration was not illegal.¹⁴ Southern Sudan also took its place in the community of nations, and the United Kingdom explicitly recognised the right of Scotland to organise a referendum and to become an independent state if such was the wish of its people.¹⁵

One can also note that the recognition a right to decide its political and constitutional future is recognized Belgium when we think of Flanders and Wallonia, in Denmark if we consider the peoples of Greenland and the Faroe Islands.

One we cannot however pass in silence the difficulty of the Palestinian people to fully achieve their right of self-determination,¹⁶ not to mention the peoples of Western Sahara¹⁷ or Kurdistan¹⁸, whose struggles for freedom face obstacles that have so far proven insurmountable. And what can we say of the obstinate refusal of the Spanish State to recognise the right of the Catalans to freely decide their future and the measures it has taken to curtail such right, including

The Right to Choose: Essays on Québec's Right of Self-Determination. Montréal: Éditions Thémis. 2001, 801-835.

¹³ A/RES/61/295, UN GAOR, 61st sess., U.N. Doc. A/61/49 (2007).

¹⁴ *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, I.C.J. Reports 2010, 403.

¹⁵ See *Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland*, Edinburgh, 15 October 2012.

¹⁶ See Barnidge, Jr., Robert. P.: *Self-Determination, Statehood, and the Law of Negotiation: The Case of Palestine*. Oxford, Hart Publishing, 2016.

¹⁷ See Hunsinger, Maribeth: Self-determination in Western Sahara: A Case of Competing Sovereignities? In: *Berkeley Journal of International Law Blog*, 21. 02. 2017. [online], available from: www.berkeleytravaux.com, accessed: 25. 11. 2020.

¹⁸ See Watts, Nicole: Democracy and Self-Determination in the Kurdistan Region of Irak. In: Romano, David - Gurses, Mehmet (eds.): *Conflict, Democratization, and the Kurds in the Middle East*. New York: Palgrave Macmillan. 2014, 141-168.

the iniquitous sentences of the Spanish Constitutional Court in these matters?¹⁹

Despite the continuing obstacles to the full achievement of the right of self-determination, there have been several other instances where the right of self-determination has been invoked and recognized in recent years. Hence, self-determination referendums were held in the Bougainville region of Papua New Guinea,²⁰ as well as in New Caledonia in 2018 and 2020.²¹ In addition, an independence referendum should be held in the Chuuk State with the consent of the Federated States of Micronesia in 2022.²²

The major attribute of the right of self-determination is “the right of peoples to decide”. But it comes with an essential corollary, “the obligation for States to negotiate”.

¹⁹ On such measures, see the views expressed by the legitimate president of Catalonia Carles Puigdemont: Spain’s attempt to block Catalonia’s referendum is a violation of our basic rights. *The Guardian*, 21. 09. 2017 [online], available from: www.theguardian.com, accessed: 25. 11. 2020. On the attitude of the Spanish Constitutional Court, see Turp, Daniel: Catalonia’s “Right to Decide” under International, European, Spanish, Catalan and Comparative Law. In: *The Catalan Independence Referendum: An Assessment of the Process of Self-Determination*. Montréal: L’Institut de recherche sur l’autodétermination des peuples et les indépendances nationales (IRAI). 2017, 55-73.

²⁰ This referendum was organized held 23 November and 7 December 2019 in accordance with the *Bougainville Peace Agreement*. Given the choice between greater autonomy within Papua New Guinea and full independence, 98,31% of the votes were cast in favor of independence, see: Cave, Damien: Bougainville Votes for Independence From Papua New Guinea. *The New York Times*, 11. 12. 2019 [online], available from: www.nytimes.com; accessed: 25. 11. 2020.

²¹ The referendum on self-determination held in New Caledonia on Sunday 4 October 2020, in accordance with the *Nouméa Accord* of May 5, 1998, resulted in a short victory for the NO. To the question: “Do you want New Caledonia to accede to full sovereignty and become independent?”, 53.26% voted YES and 46.74% voted NO. The YES vote obtained 43.33% in the referendum of November 4, 2018. The *Nouméa Accord* allows for a third referendum to take place and such a referendum should occur in 2022: see Julien SARTRE et Ben DOHERTY, “New Caledonia rejects independence from France for second time- Secessionists say they will take their campaign to third referendum in 2022”, *The Guardian*, 4. 11. 2019 [online], available from: www.theguardian.com, accessed: 25. 11. 2020.

²² See: Chuuk independence referendum postponed until 2022. *Radio New Zealand*, 29. 02. 2020. [online], available from: www.rnz.co.nz, accessed: 25. 11. 2020.

3 Self-determination and the obligation of states to negotiate

In accordance with the right of self-determination guaranteed in Article 1 common to both *International Covenants on human rights*, peoples may “freely determine their political status and freely pursue their economic, social and cultural development.” In terms of political status, the *Declaration on Friendly Relations* stipulates that “[t]he establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right to self-determination by that people.”

These provisions confer to peoples a genuine “right to decide” and a collective right which is ultimately to be exercised by peoples. It should be remembered that the exercise of the right does not necessarily lead to national independence; it may take the form of association with another state or the acquisition of increased autonomy or fundamental individual and collective rights for the people within the State.

But it is also important to stress that the affirmation of the right of self-determination of peoples is accompanied in the same *International Covenants on Human Rights* by the imposition of an obligation on States. Hence, “the States Parties to the present Covenant shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.” This requirement has not been more closely defined by the *Declaration on Friendly Relations* or by other international instruments. It gives States a duty to negotiate with peoples who have chosen to exercise their right of self-determination and to enter into discussions about the political status that the peoples desire. Such an obligation to negotiate should be seen to derive from the duty to promote the realization of the right and to respect it.

Such an interpretation is supported by the views expressed by the Supreme Court of Canada in its 1998 *Reference re Secession of Quebec*. Referring to the “clear expression of self-determination of Quebec” and drawing on the principles of federalism and democracy, the Court

recognised that Quebec had “the right [...] to pursue secession” and that Canada had an obligation to negotiate. Two excerpts from the Court’s opinion deserve to be quoted:

88. The federalism principle, in conjunction with the democratic principle, dictates that the clear repudiation of the existing constitutional order and the clear expression of the desire to pursue secession by the population of a province would give rise to a reciprocal obligation on all parties to Confederation to negotiate constitutional changes to respond to that desire. [...] The clear repudiation by the people of Quebec of the existing constitutional order would confer legitimacy on demands for secession, and place an obligation on the other provinces and the federal government to acknowledge and respect that expression of democratic will by entering into negotiations and conducting them in accordance with the underlying constitutional principles already discussed.

92. However, we are equally unable to accept the [...] proposition, that a clear expression of self-determination by the people of Quebec would impose no obligations upon the other provinces or the federal government. The continued existence and operation of the Canadian constitutional order cannot remain indifferent to the clear expression of a clear majority of Quebecers that they no longer wish to remain in Canada. This would amount to the assertion that other constitutionally recognized principles necessarily trump the clearly expressed democratic will of the people of Quebec. Such a proposition fails to give sufficient weight to the underlying constitutional principles that must inform the amendment process, including the principles of democracy and federalism. The rights of other provinces and the federal government cannot deny the right of the government of Quebec to pursue secession, should a clear majority of the people of Quebec choose that goal, so long as in doing so, Quebec respects

the rights of others. Negotiations would be necessary to address the interests of the federal government, of Quebec and the other provinces, and other participants, as well as the rights of all Canadians both within and outside Quebec.

Although the opinion of the Supreme Court of Canada is based on the principles of the Canadian constitution, these principles should extend far beyond the borders of Canada and Québec. All the peoples who are seeking self-determination could remind the governments of the States in which they are comprised that their right to decide can also rest on the democratic principle, and that the exercise of such right has as a corollary, their own obligation to negotiate.

The democratic principle is entrenched in many constitutions and should be seen as the source of right to decide and the obligation to negotiate. It has provided the basis for some peoples who organised self-determination referendums and could afford a sound basis for other peoples to consult their population as well.

To summarize, it has been argued the right of self-determination is “the right of peoples to decide” and that it allows peoples to freely determine their political status, whether it be the establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people, including a status conferring various degrees of autonomy within an existing State.

What has been neglected within juristic opinion to date, is the that the right of self-determination comes with an essential corollary, i.e. “the obligation for States to negotiate”. This obligation was strongly affirmed in the Supreme Court of Canada’s *Reference re Secession of Québec* and can also be found in article 1 common to the same *International Covenants on Human Rights*,

The struggle to be a nation and for national self-determination is obviously, to quote the French philosopher Ernest Renan “a daily plebiscite” (“*un plébiscite de tous les jours*”).²³ When it comes to self-determination, it is important that peoples affirm such a right for themselves. It is also important that a movement claiming the right to self-determination defines means and ways to allow for a true manifestation of the will of the people. Elections and referendums are obviously such true manifestations and their use consistent with the democratic principle

Québec has chosen such paths in holding referendums in 1980 and 1995 and also in adopting in 2000, an *Act respecting the Exercise of the Fundamental Rights and Prerogatives of the Québec people and the Québec State*.²⁴ Articles 1 to 5 and 13 of this Act read as follows:

1. The right of the Québec people to self-determination is founded in fact and in law. The Québec people is the holder of rights that are universally recognized under the principle of equal rights and self-determination of peoples.
2. The Québec people has the inalienable right to freely decide the political regime and legal status of Québec.
3. The Québec people, acting through its own political institutions, shall determine alone the mode of exercise of its right to choose the political regime and legal status of Québec.
4. No condition or mode of exercise of that right, in particular the consultation of the Québec people by way of a referendum,

²³ Renan, Ernest: *Qu'est-ce qu'une Nation?* Paris: Imprimerie nationale. 1882.

²⁴ Compilation of Québec Laws and Regulations (CQLR), chapter E-20.2 [online: <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/E-20.2>]. As evidence that a nation is a daily plebiscite, there has been a constitutional challenge of this Act before a Québec court in which the Government of Canada has intervened. On this challenge, see Beauséjour, Anthony – Turp, Daniel: *Affaire Henderson sur la constitutionnalité de la Loi 99 – La relecture fédérale du Renvoi relatif à la sécession du Québec*. In: *Revue juridique Thémis de l'Université de Montréal (R.J.T.U.M.)* 53 2019, 367.

shall have effect unless determined in accordance with the first paragraph.

5. When the Québec people is consulted by way of a referendum under the Referendum Act (chapter C-64.1), the winning option is the option that obtains a majority of the valid votes cast, namely 50% of the valid votes cast plus one. [...]

13. No other parliament or government may reduce the powers, authority, sovereignty or legitimacy of the National Assembly, or impose constraint on the democratic will of the Québec people to determine its own future.

All peoples could affirm similarly their right to self-determination, including their right freely determine their political status. They could also call upon the States in which they are included to abide by their obligation to negotiate and their international commitment to promote the realization of the right of self-determination, as well as to respect the democratic principle.

In so doing peoples would remind us, as Woodrow Wilson stated more than 100 years ago, that

“there is a deeper thing involved than even equality of right among organized nations” and that indeed “[n]o peace can last, or ought to last, which does not recognize and accept the principle that governments derive all their just powers from the consent of the governed, and that no right anywhere exists to hand peoples about from sovereignty to sovereignty as if they were property”.²⁵

²⁵ See Address of the President of the United States to the Senate », 22 January 1917 [online: <http://www-personal.umd.umich.edu/~ppennock/doc-Wilsonpeace.htm>].

Bibliography

- Barnidge, Jr., Robert. P.: *Self-Determination, Statehood, and the Law of Negotiation: The Case of Palestine*, Oxford, Hart Publishing, 2016.
- Beauséjour, Anthony – Turp, Daniel: Affaire Henderson sur la constitutionnalité de la Loi 99 - La relecture fédérale du Renvoi relatif à la sécession du Québec. In: 53 *Revue juridique Thémis de l'Université de Montréal (R.J.T.U.M.)*. 2019, 367-394.
- Buchanan, Allen, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Québec*. New York: Basic Books, 1991.
- Crawford, James: *The Creation of States in International Law*. Oxford: Oxford University Press, 2nd ed. 2006.
- Gilbert, Geoff: Autonomy and Minority Groups: A Right in International Law. In: *Cornell International Law Journal*, Vol. 35. 2002, 307-353.
- Ghai, Yash: Introduction: Nature and Origins of Autonomy. In: Ghai, Yash - Woodman, Sophia (eds.): *Practising self-government. A comparative Study of Autonomous Regions*. Cambridge: Cambridge University Press. 2013, 1-31.
- Griffiths, Ryan: The State of Secession in International Politics. In: *E-International Relations*, published: 23. 09. 2016
- Hannum, Hurst: *Autonomy, Sovereignty and Self-Determination - the Accommodation of Conflicting Rights*. Philadelphia: University of Pennsylvania Press. 1996.
- Hunsinger, Maribeth: Self-determination in Western Sahara: A Case of Competing Sovereignities? In: *Berkeley Journal of International Law Blog*, 21. 02. 2017.
- Radan, Peter: Secessionist Referenda in International and Domestic Law. In: *Nationalism and Ethnic Politics*, Vol. 18. 2012, 8-21.
- Renan, Ernest: *Qu'est-ce qu'une Nation?* Paris: Imprimerie nationale. 1882.
- Seymour, Michel (dir.) : *Repenser l'autodétermination interne*. Montréal: Les Éditions Thémis, 2016.
- Turp, Daniel: *The Right to Choose: Essays on Québec's Right of Self-Determination*. Montréal: Éditions Thémis. 2001, 801-835.
- Turp, Daniel - Sanjaume-Calvet, Marc (eds.): *The Emergence of a Democratic Right of Self-Determination in Europe*. Brussels: Centre Maurits Coppiters. 2017.
- Turp, Daniel: Catalonia's "Right to Decide" under International, European, Spanish, Catalan and Comparative Law. In: *The Catalan Independence Referendum: An Assessment of the Process of Self-Determination*. Montréal: L'Institut de recherche sur l'autodétermination des peuples et les indépendances nationales (IRAI). 2017, 55-73.

Vezbergaitė, Ieva: *Remedial Secession as an Exercise of the Right of Self-Determination of Peoples*. Thesis, Budapest, Hungary. 2011.

Watts, Nicole: Democracy and Self-Determination in the Kurdistan Region of Irak. In: Romano, David - Gurses, Mehmet (eds.): *Conflict, Democratization, and the Kurds in the Middle East*. New York: Palgrave Macmillan. 2014, p. 141-168.

MINORITY AUTONOMY AND THE INTERNAL ASPECTS OF SELF-DETERMINATION IN THE EU: BRIEF COMPARATIVE APPROACH FROM THE BASQUE COUNTRY

1 Introduction

The aim of this paper is to try to establish a certain general and comparative approach towards autonomy and self-determination within the general scope of the EU and to reflect also the peculiar example and position of the Basque Country within the Spanish system.

Nowadays, the concept of self-determination is linked with the so-called right to decide in its more recent political approach in various nations with different levels of autonomy. The political claims of Catalonia, Basque Country, Scotland,¹ Québec² or Flanders, *inter alia*, are significant in order to understand the concept of self-determination within complex debates on the linkages between autonomy and the will of sovereignty.³

* Lawyer of the Bar Association of San Sebastian Phd Law, Department of Constitutional and Administrative Law (University of the Basque Country and Universidad de Deusto), bcpecsaj@ehu.eus.

¹ In particular with the self-determination referendum negotiated with the UK celebrated on 18 September 2014. Keating, Michael: *The independence of Scotland*, Oxford University Press, 2009.

² Québec celebrated a negotiated referendum for self-determination on 30 October 1995. Vid. Gagnon, Alain: Constitutional referendums and the democratic challenges: Canada as a role model?, in *Naciones y Estados en el siglo XXI: democracia y derecho a decidir*, Revista Internacional de Estudios Vascos, Cuadernos 11, 2015.

³ Vid. Carrillo, José Antonio: Sobre el pretendido “derecho a decidir” In: Derecho Internacional contemporáneo. *El Cronista del Estado social y democrático de Derecho* 33, 2012. See also, VV.AA, Turp, Daniel - Sanjaume Calvet, Marc (eds.): *The emergence of a democratic right to self determination in Europe*. Brussels: Centre Maurice Coppieters, 2016. Ruiz Vieytez, Eduardo: Regulando el derecho a decidir: una propuesta, en *Naciones y Estados en el siglo XXI*, Cuadernos RIEV 11, Eusko Ikaskuntza, 2015, 226.

In this sense, the right of self-determination has a historical and political origin which tends to be recognised and updated either in the international or domestic frameworks.⁴

2 Theoretical approach to self-determination

Before the 1966 International Covenant on Civil and Political Rights, the 1945 United Nations Charter quoted the right to self-determination in its articles 1.2 and 55. Indeed, international law holds that a State can exist without being recognised by others in its declarative theory of statehood,⁵ mainly through recognition of new international realities.⁶ Verdross, for example, maintains this idea clearly and did so before 1966.⁷

Meanwhile Mancini states the considerable importance of domestic constitutional law: "Constitutional law has an important role to play in secessionist disputes: without intruding in the political process, it can set the rules to channel an inevitably conflicting-provoking process, often loaded with emotion and irrationality, to rules of democratic logic".⁸

⁴ Vid. Guimón, Julen: *El derecho de autodeterminación. El territorio y sus habitantes*, Bilbao: Universidad de Deusto. 1995. He recalls that Karl Marx quoted this right in 1848 referring to Poland and Ireland. There is another important reference to the Declaration of President Wilson to the U. S. Congress after the First World War, 8 January 1918. http://avalon.law.yale.edu/20th_century/wilson14.asp

The Declaration of Independence of the United States (4 July 1776) furthermore assumed the inspiring principles of self-determination and the other principles of the French Revolution movement. Vid. Thurer, Daniel - Burri, Thomas: "Self Determination", Max Planck of Public International Law, University of Oxford, 2008. <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e873>

⁵ According to UN data there is a very remarkable evolution of the recognition of new States at the UN system. In 1945 the UN had 51 members; 1950: 60 members; 1960: 99; 1970: 127; 1980: 154; 1990: 159; 2000: 189; 2011: 193. <https://www.un.org/en/sections/member-states/growth-united-nations-membership-1945-present/index.html>

⁶ Verdross, Alfred: *Derecho Internacional Público*. Madrid: Aguilar. 1957, 88.

⁷ *Ibid.*, 94.

⁸ Mancini, Sussana: Secession and self-determination. In: Rosenfeld, Michel - Sajó

The 1966 International Covenant on Civil and Political Rights (ICCPR) and the role of the UN High Commissioner on Human Rights are very relevant for the development of the right to self-determination. In fact, the UN High Commissioner is entitled to control and foster the fulfilment of the ICCPR, whose first article assumed recognition of the right to self-determination in current international law. Moreover, article 21.3 of the 1948 Universal Declaration on Human Rights recognises the right of the people to decide their political status within democratic freedoms.⁹

The High Commissioner directly relies on the UN Secretary-General and its mandate is driven by articles 1, 13 and 55 of the UN Charter and the Vienna Declaration and Programme of Action of 20 December 1993 (48/141) establishing the office of the UN High Commissioner for Human Rights (OHCHR).¹⁰ The OHCHR and the Centre for Human Rights have been a single body since 15 September 1997. These formal considerations underline the linkage of self-determination and the adequate exercise and respect of Human Rights.¹¹

This linkage is also highlighted by Resolution 2625 (XXV) of the General Assembly of the United Nations about “The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States”, which proclaims under the subchapter on “the principle of equal rights and self-determination of peoples” that

András (eds.), *Oxford Handbook of Comparative Constitutional Law*. Oxford: Oxford University Press. 2012, 500.

⁹ Article 21.3, 1948 Universal Declaration on Human Rights: “The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”.

¹⁰ A/51/950, 79.

¹¹ Vid. Kymlicka, William: Linking self-determination and Human Rights: comments on Peter Jones (2015). In: Etinson, Adam (ed.): *Human Rights; moral or political?* Oxford: Oxford University Press, 2016. Seymour, Michel: Secession as a remedial right. In: *Inquiry: An interdisciplinary Journal of Philosophy* 50, 2007. Hannum, Hurst: Autonomy, sovereignty and self-determination. The accommodation of conflicting rights. Pennsylvania: University of Pennsylvania Press, 1990; and Rethinking self-determination. In: *Virginia Journal of International Law*, Vol. 34, 1, 1993.

“...every state has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter” and that “...every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence.”

The assertion that the right to self-determination is indeed a positive right¹² linked with the rest of Human Rights¹³ was clearly reaffirmed in paragraph 1 of CCPR General Comment No. 12 of the UN Human Rights Committee (adopted on its 21st session on 13 March 1984), and later on by the International Court of Justice in its case-law about self-determination for Eastern Timor:

“1. In accordance with the purposes and principles of the Charter of the United Nations, article 1 of the International Covenant on Civil and Political Rights recognizes that all peoples have the right of self-determination. The right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights. It is for that reason that States set forth the right of self-determination in a provision of positive law in both Covenants and placed this provision as article 1 apart from and before all of the other rights in the two Covenants”.¹⁴

¹² Vidmar, Jure: Remedial secession in International Law: Theory and (Lack of) practice. In: *St. Antony's International Review* n°6-1. Oxford, 2010.

¹³ Keating, Michael: Self-determination, multinational states and the transnational order. In: Walt van Praag, Michael C. van (ed.): *The Implementation of the Right to Self-determination as a Contribution to Conflict Resolution*. Barcelona: UNESCO Catalunya, 1998.

¹⁴ UN Human Rights Committee: CCPR General Comment No. 12: Article 1, *The Right to Self-determination of Peoples*, Paragraph nr. 1. Adopted: 13 March 1984, available at: <https://www.refworld.org/docid/453883f822.html>, accessed 19 November 2020.

This a crucial question because it links the right to self-determination with situations and events characterised by failure to comply with International Human Rights.¹⁵ Ruiz Vиейtez underlines that the right to self-determination is not only a Human Right,¹⁶ but also a useful legal tool to avoid conflicts and to foster democracy.¹⁷

Therefore, current international law begins to assume the right to self-determination not necessarily with the colonial condition of a territory, but indeed with the identity and autonomy democratic will of a determined political society.¹⁸

The direct relationship between the right to self-determination, freedom and autonomy was further underlined by MacCormick in its individual and collective view:

“So self-determination is after all a vital part of any acceptable conception of liberty as autonomy, self-determination in a dual sense, meaning that there has to be scope both for individual

¹⁵ Ruiz Vиейtez, Eduardo: *Réflexions sur la nature de l'autodétermination de la perspective des droits de l'homme*. In: *Les Cahiers du Centre de Recherche Interdisciplinaire sur la Diversité num. 3*. Montréal (Québec): CRIDAQ, 2012.

¹⁶ *Ibid.*, 35.

¹⁷ Some of the ECHR case law with regard to Basque issues and Human Rights:

- European Court of Human Rights (ECHR), 2010. *Affaire San Argimiro Isasa v. Espagne (Requête no 2507/07)*, Arrêt 28 septembre 2010 [online]. Available from: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-100676>
 - ECHR, 2012a. *Otamendi Egiguren v. Spain*, Judgment of 16 October 2012 (47303/08) [online]. Available from: <http://hudoc.echr.coe.int/webservices/content/pdf/001-113820?TID=nnyscnvaqh>
 - ECHR, 2012b. *Case of del Rio Prada v. Spain (Application no. 42750/09)* 10 July 2012 [online]. Available from: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-112108>
- Judgment of the ECHR Grand Chamber of 21 October 2013.
- ECHR, Judgment of 8 October 2013, *Román Zurdo y otros v. Spain*. ECHR, Judgment of 8-10-2013, *Nieto Macero v. Spain*. ECHR, Judgment of 12-11-2013, *Sainz Casla v. Spain*. ECHR, Judgment of 5 March 2013, *Varela Geis v. Spain*. ECHR, Judgment of 19-2-2013, *García Mateos v. Spain*.
 - Vid. Judgment ECHR of 31 May 2016, *Beortegui v. Spain*, (Application num. 36286/14).

¹⁸ The cases of Québec and Scotland are clear. We can also mention the process of self-determination of the USSR, Yugoslavia and Czechoslovakia. A different example would be the reunification of Germany.

self-determination inside a political community and for the collective self-determination of the community without external domination”.¹⁹

Michalska also refers to the direct link between the right to self-determination and the international concept of Human Rights: “The obligation of international law to safeguard rights and liberties in internal relations is imposed in status by the treaties concerning human rights”.²⁰

Bengoetxea states the connection of self-determination with individual and democratic freedom within the scope of collective political identities:

“How, then would I support the moral-political right to self-determination? Self-determination is a democratic principle which extends the principle of personal moral autonomy to a collective level. Just as the individual is sovereign to decide on moral beliefs and moral conduct, so are the communities free and sovereign to decide how they organise themselves”.^{21, 22}

The contribution of Bengoetxea is relevant because he includes the portrait of the right to self-determination with important particularities in the EU if we consider the decisions adopted by Member States in order to share sovereignty and Human Rights in European Law, together with the roles of the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECHR): “An even more significant factor has

¹⁹ MacCormick, Neil: Is nationalism philosophically credible? In: Twining, William (ed.): *Issues of Self-Determination, Enlightenment, rights and revolution series*. Aberdeen: Aberdeen University Press. 1991, 15.

²⁰ Michalska, Anna: Rights of peoples to self-determination in international law. In: *Ibid*, 86.

²¹ Gregg, Benjamin: A socially constructed Human Right to self-determination of indigenous peoples. In: *Deusto Journal of Human Rights 1*, Bilbao: Pedro Arrupe Human Rights Institute, 2016.

²² Bengoetxea, Joxerramon: Nationalism and self-determination: the Basque case. In: *Twining 1991 op. cit.*, 138.

been Jean Monnet's revolutionary idea of living up certain spheres of traditional state sovereignty to larger institutional arrangements of an inter-state nature (namely to the European Communities). This idea of jointly pooling our State competences and resources into larger institutions is contributing to the recognition that sovereignty is a matter of degree, that it can be shared."²³

3 Autonomy and Self-determination in the EU

The relation of autonomy and the right to self-determination is even more complicated in the EU. The historical, institutional and legal framework we could analyse from just the constitutional perspective is even wider with EU law and its assumption of competencies in a new scope of co-sovereignty.

The matter is particularly important if we consider that the EU does not have its own official administration and is obliged to use the administrations of the Member States to enforce EU rules and policies within each State. This aspect, while frequently overlooked, makes the situation more complicated for the practical and real enforcement of EU law.²⁴

Nevertheless, we must underline that at least at the EU level, we are still watching a substantial modification in the classic concept of sovereignty, leading towards a supra-national body with specific law, with direct and prior force and *ad hoc* jurisdictional control similar in the case of the CJEU to any constitutional domestic court whose role is the due control of the legal grounds of public regulations and actions within the rule of law.

While this gradual change towards EU levels is clear, it is difficult to see the same process towards Sub-State bodies, regions or autonomous

²³ *Ibid.*, 142.

²⁴ Vid. Conversi, Daniele - Ezeizabarrena, Xabier: "Autonomous Communities and Environmental Law: the Basque Case", in *Minority self-government in Europe and the middle East, Studies in International Minority and Group Rights*, Brill-Nijhoff, Leiden-Boston, 2019.

communities with different levels of autonomy. This practical challenge comes particularly well to the fore in countries, such as Spain, which – while being decentralised – did not introduce any domestic mechanisms to allow for the direct participation of sub-state governments in EU decision-making.²⁵ This dilemma focuses on the myth of sovereignty that is still showing new shapes in the EU context, even though there have been indeed important developments within this field.²⁶ It is therefore crucial to ease the path towards facilitating sub-state participation at the EU level.

This is also relevant in the Basque context considering the scope of action of Historical Rights at domestic level, in peculiar issues that do not fall under the remit of the State. It is necessary to explore these matters even though the classic sovereignty of the State has virtually disappeared, to leave legal space for the Sub-State entities in order to defend the constitutional reality present in the concept of Historical Rights. Some of these considerations and contradictions within the EU system have been mentioned by Járegui, regarding lack at the basic institutional level when the EU policies may interfere with Basque competencies arising from Historical Rights, likewise the ones concerning the tax system.²⁷

All these emerging factors have fostered substantial amendments in the classic concept of sovereignty, either in the external scope or in the domestic one of the EU. Meanwhile, at the State level, the view is totally different regarding the domestic purposes towards their sub-national entities, especially within the Spanish context.

The new EU sovereignty is therefore shared among Member States and domestic-level sovereignty is shared within every decentralised Member State. We can highlight the relevant cases of Austria, Belgium

²⁵ Nevertheless, the Spanish Act 25/2014, on treaties and other international agreements (Ley 25/2014, de Tratados y otros acuerdos internacionales) must be considered a step forward towards claiming practical enforcement.

²⁶ Despite the dilution of sovereignty, the institutional framework mainly considers economic and market aspects in the EU.

²⁷ Járegui, Gurutz: *La globalización y sus efectos en el principio de soberanía*, In: Castells, José Manuel - Iriondo, Xabier (eds.): *La institucionalización jurídica y política de Vasconia*. Eusko Ikaskuntza, Colección Lankidetzan, 1997, 47.

and Germany with their constitutional amendments to resolve the problem of sub-state participation at the EU, while Spain has so far not managed to resolve the issue leaving it for the EU s or even the CJEU in certain cases such as those affected by Basque Historical Rights.²⁸

Another important question of the above process is linked with the negative approach of the States to the right to self-determination. This is particularly true within the EU where the concept of statehood has been somehow softened. The negative approach towards self-determination is not only in contradiction with some EU developments, it furthermore explains the deficiencies and dysfunctions of the EU and the international system. On the other hand, however, as Herrero de Miñón reminds, a linkage with the Historical Rights for the Basque Country was recognised in the 1978 Spanish Constitution.²⁹ In this sense it is important to underline here that during 2004 the Proposal for a new Political Statute for the Basque Country was enacted by the Basque Parliament (30-12-2004),³⁰ assuming the right to self-determination through historical rights and bilateral negotiation with the Spanish Government.³¹

²⁸ It is clear for the future that if EU Law does not adopt the necessary measures to assume the legitimization of Sub-State bodies before EU institutions with regard to eventual disputes affecting regional legislative competencies and possibly in breach of EU Law, we will have many and different jurisdictional conflicts to be solved before the CJEU and the respective constitutional courts of the Member States. Vid., Ezeizabarrena, Xabier: "Scottish Devolution and Basque Historical titles: two legal paths towards co-sovereignty", Scottish Affairs 80, summer 2012.

²⁹ Vid. Herrero de Miñón, Miguel: *Derechos Históricos y Constitución*, Taurus, 2000, 259-281.

³⁰ The so called "Ibarretxe Plan", led by the former Basque Premier (Basque National Party) during 2004. The Spanish Parliament previously enacted an amendment of the Criminal Code in order to prosecute any public authority organising any consultation or referendum about sovereignty: Ley Orgánica 20/2003, BOE number 309 (Spanish Official Gazette), 26-12-2003.

³¹ Afterwards the new Political Statute was refused by the Spanish Parliament (1-2-2005), and during 2008 the Basque Parliament enacted an Act regulating public consults in this regard (Ley 9/2008, of the Basque Parliament), and the consultation organised thereby for the 25-10-2008 was banned by the Judgment of the Spanish Constitutional Court 103/2008 (STC 103/2008) against the consultation and the Act itself.

Herrero de Miñón links the enforcement of the right to self-determination not with the nature of a colonial territory, but with the existence of an identity and a positive will for political autonomy which is clearly noticed in the Basque-Spanish case³² by Historical Rights³³:

1. The right to self-determination does not depend on the colonial condition of a territory. It is a matter of the democratic will of a determined society.^{34, 35, 36}
2. Historical Rights are justified within the Marx and Hegel concepts of “nations with history”.³⁷
3. The Historical Rights of each nation with history are the ones opening the possibility towards self-determination. This right is the sense of the Additional Clause of the Basque Act of Autonomy as well as for the first additional clause of the Navarre Act of Autonomy, with their respective linkages with Historical Rights of Basque people.³⁸

³² The question is different in the Basque-French case due to the absence of a constitutional clause thereon for their territories and their, if any, Historical Rights. However, certain rights and notes of self-organisation close to the “foral” system in the Southern Pyrenees were quoted by Lafourcade, Maite: in *Las instituciones tradicionales y públicas de la Vasconia continental*, Euskonews & Media num. 38, <http://www.euskonews.com>, accessed: 2020.11.18.

³³ Herrero de Miñón, 2000, *op. cit.* 270-271.

³⁴ This interpretation agrees with article 3.1 of the Spanish Civil Code, regarding the obligation to interpret rules in agreement with the context and social reality. Otherwise, the right to self-determination would only be applicable in colonial contexts. This, indeed, does not follow the reality of previous decades in the international legal and comparative practice of the Supreme Court of Canada Ruling (20 August 1998) for the case of Quebec, as well as in Scotland (2014 referendum), Northern Ireland, the Czech Republic, Slovakia, Estonia, Lithuania, Latvia or Timor.

³⁵ The mentioned relevant body is, in fact, the first Additional Clause of the Spanish Constitution. Nevertheless, in the EU context, the EU itself might be able to assume this role provided that there are two EU members involved in the Basque case. A similar approach was arranged by the EU without any provision on Historical Rights for the cases of Northern Ireland, the Czech Republic and Serbia.

³⁶ Herrero de Miñón, 2000, *op. cit.* 270.

³⁷ *Ibid.*, 270-271.

³⁸ *Ibid.*, 271.

4. The elements of self-determination, therefore, can only be defined by means of an objective social reality and previously existing political body.³⁹
5. Furthermore, and as a consequence, Basque Historical Rights or Titles should become an adequate legal or constitutional framework in order to define how we shall enforce the right to self-determination.⁴⁰
6. Finally, Herrero de Miñón goes further with two main conclusions deriving from the previously mentioned: Historical Rights support, as previous objective reality, the national community that may, eventually foster its democratic will. For the Basque case that is clearly included in the first additional provision of the 1978 Constitution and in the additional provision of the 1979 Basque Act of Autonomy.^{41, 42, 43}

The thesis of Herrero de Miñón is not without difficulties for resolving the concepts of “constitutional unity”⁴⁴ or those of “constitutional framework”⁴⁵. Nevertheless, this thesis could also be adaptable in most of the EU Sub-State autonomies on an interpretative

³⁹ *Ibid.*, 271-272.

⁴⁰ *Ibid.*, 272.

⁴¹ I would include also as a current updated example on the matter, the provisions of the First Additional clause of the 1982 Navarre Act of Autonomy.

⁴² Herrero de Miñón 2000 *op. cit.*, 280.

⁴³ As I will explain here, my interpretation is similar but pointing out furthermore, that Historical Rights may serve to avoid the limits of the VIII Title of the Constitution, while they shall be entitled to claim the constitutional reform in order to overcome its framework, but never disregarding fundamental rights or assuming those competencies that are even forbidden to the Spanish Parliament through EU Law. Vid. Loperena, Demetrio: “Unidad constitucional y actualizaciones generales y parciales de los Derechos Históricos”, in *Jornadas de Estudio sobre la actualización de los Derechos Históricos vascos*, UPV/EHU, 1985, p. 316 and ss.; even though the Judgment of the Spanish Constitutional Court (12 October 2000) assumed the possibility to avoid fundamental rights (in this case, article 14 of the Constitution) by means of the Historical Rights regime of Navarre to legislate Civil Law.

⁴⁴ “Constitutional unity” was the limit for the Act of 25 October 1839.

⁴⁵ “Constitutional framework” is the current limit for the First Additional Clause of the Spanish Constitution. But obviously, the constitutional framework has been radically modified by the EU treaties.

basis. Thus, the Basque model could be utilised as a source of inspiration to avoid the above-mentioned new sovereignty-issues within the complex legal system of the EU. Put differently, the Historical Rights shall be enforced by the State as the entity that recognised them at domestic constitutional level, but also before the EU, if we consider that this recognition took place in the framework of EU membership.

4 Autonomy and New Sovereignty in the EU

The existence of original constitutional agreements in force with Sub-State entities should be useful for avoiding the problems mentioned either at domestic level or at the EU level within a context of co-sovereignty.⁴⁶

The EU pretension for integration and identity could become a solution for diverse nations or peoples within the constitutional framework demanding a direct recognition from the state's governments and, specially, within its linkages at the EU.

However, in order to reach a peaceful institutional agreement on all the aforementioned, problems arise when we talk about the EU as a fruit of an international treaty, and therefore, through a concept that avoids Sub-State entities from taking part directly in EU decision-making. However, there are tools available within the Treaty of the European Community (hereinafter TEC) as well as in the Treaty of the EU (hereinafter TEU) in order to assume those considerations.

The first important issue is the distinction of terms in the case of article 1 of the TEU, ahead of articles 1 and 2 of the TEC. While the first seems to assume the notion or concept of "peoples", the second ones follow the concept of "Contracting parties" and "Member States". One might think that these notions represent a kind of concept ambiguity or a rhetorical recognition of the EU peoples, regardless of the positive approach within the legal framework. But both treaties design an organisation of special nature with a genuine will for political

⁴⁶ MacCormick 2001, *op. cit.*

integration, which is a differentiating feature compared to several other treaties and international instruments that do not support such a strong integration process.

We can, therefore, talk of the EU as a real fruit of an international treaty. However, it has a clear will for integration and this also requires dealing with Sub-State participation at all levels. This means that as an international organisation looking for integration, the Sub-State approach recognised at domestic levels should become a part of the EU framework, in the same way that happens with national constitutional laws. In order to assume this task, the adoption of a single international treaty should not be an obstacle or difficulty as the integration of the political wills of every single body in the Member States should also include the level of Sub-State nations. In fact, the essential characteristic of the EU is to operate a real transnational integration of the democratic principles in force in all Member States.

This also demands more attention for those cases which in reality show a constitutional background for decentralisation of political power in different organisations and legislative powers. In my view, the EC and EU Treaties clearly allow this interpretation.⁴⁷

- a) Article 4.2 of the TEU: Respect for national identities of the Member States

This provision not only demands maintaining the domestic particularities of every State within the EU, but also the real recognition of Sub-State particularities within several Member States. Some of them are the different autonomy systems in force.

- b) Articles 2 & 3 of the TEC as limits for a global and integrated system.

⁴⁷ Other authors, in a different sense, do follow the classic approach of the TEC and the TEU as international treaties that would not open Sub-State entities' capacity for participation. In this regard States normally agree on their own particular views of the scope of their constitution and its external approach before the EU. Nevertheless, my interpretation follows the idea of considering Sub-State entities as integrated parts of the States before the EU.

If the above mentioned sub-national autonomy does not contradict these provisions, then there would be no legal obstacles for the EU and its bodies to allow for the direct participation of Sub-State entities in the decision-making processes of the EU. Moreover, the principle of subsidiarity requires this, and so does the peaceful enforcement of the rules and provisions for the whole system. Therefore, the problems are not really within the legal provisions of treaties nor in the EU will, but in the political approach made by Member States generally.

The consideration of the EU system as a global sum of diverse States on a path towards integration whose domestic particularities are present in their respective constitutions may be suitable, in my view, to producing the assumption of direct participation of sub-state entities in EU decision-making.

In order to enforce this and assume its real dimension we may use the institution of Human Rights as an example.⁴⁸ They are an inherent requirement for belonging to the EU system and characteristic of every Member State. Article 6 of the TEU is clear, therefore. This is an essential matter because the EU assumes *ab initio* that the essential part of its legal regime is not going to be controlled by the EU, but through the common constitutional traditions of the Member States. This is indeed directly linked with sovereignty and the rights of individuals who are entitled to claim before any administrative or jurisdictional bodies of member states.

So, the real existence of a sum of constitutional agreements seems to be a suitable procedure to recognise the same agreements at the EU level. Therefore, there is a principle of mutual trust for the protection of Human Rights at each domestic level of EU member states. There should, therefore, be a similar principle of mutual trust in order to recognise and assume the participation of Sub-State entities within the whole process, especially in the case of those with legislative and enforcement powers or even collective Historical Rights. This process happened without relevant problems with regards to the protection

⁴⁸ Vid. Pentassuglia, Gaetano: Assessing the consistency of Kurdish democratic autonomy with International Human Rights Law. In: *Nordic Journal of International Law* 89. 2020.

of Human Rights, whereas previously there was a huge distance among the different systems for protection within each Member State. Nowadays, in fact, there is a growing mutual impact in this regard through the enforcement of the general principles of law and the case-law of the ECHR.

This has not been an obstacle for the EU to develop certain frameworks for the protection of Human Rights in those matters directly linked with the principles and objectives of European Law. Thus, Human Rights continue to be a relevant part of the EU tradition as a central point with at least three sources of recognition:

- a) The EU law with the mentioned limits.
- b) International law, especially through the ECHR.
- c) The domestic law of each Member State.

It was actually the existence of a common constitutional tradition that substantially helped the recognition of the protection of Human Rights at the level of the EU. This may also serve to reach similar approaches in those cases where Historical Rights of Sub-State entities have direct constitutional recognition in a given member state, even though there is currently no real consideration to recognise such a role for these Historical Rights. Relative to Spain, good examples can be found in Germany, Belgium or Austria who dealt with the situation differently, and according to the peculiar nature of the European treaties as a sum of constitutional treaties that assume EU objectives and principles.

Finally, the implementation in the EU of the constitutional reality within each Member State's social, territorial and legal scope demands that the existence of these Sub-State complexities – not easily defined under the general concept of “Regions” – be distinguished. Sub-state entities may require peculiar methods to implement their constitutionally recognised competencies in order to achieve efficient enforcement at the EU level. This is seen particularly for those entities with legislative powers, such as the cases of the Basque Country according to their Historical Rights and competencies.⁴⁹

⁴⁹ It is necessary to distinguish the situations for German or Austrian *Länder*, the

The case of Bavaria⁵⁰ and Germany⁵¹ is indeed relevant in terms of granting Sub-State participation in the EU. The importance of the German approach therefore stands on similar grounds with the First Additional Clause of the Spanish Constitution for the case of Basque Historical Rights. There is indeed, likewise in the Basque case, a constitutional guarantee to respect a territorial, institutional and political reality that is clearly distinguished from others and that became part of the State under respect of those guarantees, so as together to take part in the whole process in terms of co-sovereignty.⁵²

It seems to me that this approach is also present within the context of the Bavarian Constitution assuming previous rights of the Bavarian people that are also perfectly assumed within the German Constitution. Hence, according to article 178 of the Bavarian Constitution, “Bavaria shall accede to a future democratic federal state. This shall be based on a voluntary federation of individual German states whose separate State existence is to be guaranteed”. The concept of historical titles and voluntary co-sovereignty is clearly seen here. As I quoted before, the German legislation developed those provisions by means of the

Belgium Regions, Catalonia, Scotland, Wales, Basque Country and Navarre, and some other cases as the French Departments or the British counties. The case of Basque Historical Rights demands, at least, three main approaches:

- a) More participation of the Basque and Navarre Parliaments in the EU;
- b) Participation of both delegations within the EU Council of Ministers;
- c) Direct standing to claim of both entities before the CJEU in matters of their respective competences.

⁵⁰ Vid. Nagel, Klaus: Bavaria., In: Turp et al. 2016 *op. cit.*.

⁵¹ Schefold, Dian: “La participación de los Länder alemanes en el proceso de adopción de decisiones de la Unión Europea”, in *La acción exterior y comunitaria de los Länder, Regiones, Cantones y Comunidades Autónomas*, Vol. I, IVAP, 1994, 142.

⁵² Ibid.

- Art. 79. 3 of the German Constitution: “Amendments to this Basic Law affecting the division of the Federation into Länder, their participation on principle in the legislative process, or the principles laid down in Articles 1 and 20 shall be inadmissible”. Article 1 is referred to protection of human dignity, while article 20 regards to the basic principles of the German Constitution.
- First Additional clause of the Spanish Constitution: “The Constitution protects and respects the Historical Rights of the “foral” territories (Basque Country and Navarre). The general updating of the aforementioned regime shall be arranged within the scope of the Constitution and the Statutes of Autonomy”.

Act of 12 March 1993, on cooperation between the Federation and the *Länder* on EU matters. In this regard there is also an Agreement of 29 October 1993 signed by the Federal Government and the *Länder* about cooperation on EU matters.

Regarding the case of Austria, there is formal constitutional recognition of the Sub-State EU scope through the Austrian Constitution in order to defend the *Länder's* interests at the EU. Nevertheless, and following the Austrian Constitution, it is easy to quote some similarities with the German case.⁵³ The first constitutional reference on these aspects is article 16.1 of the Austrian Constitution, according to which the *Länder* within their competencies may conclude international treaties with States nearby Austria or with their federal entities.⁵⁴ The direct participation of the Austrian *Länder* in EU decision-making is therefore constitutionally provided by article 23. D. 3 of the Constitution, according to which if an EU project affects matters within the legislative powers of the *Länder*, the Federal Government may transfer to a representative of the *Länder* the participation within the European Council. This faculty shall be granted through co-participation of the relevant member from the Federal Government in mutual cooperation. The second paragraph is also applied to the *Länder* representative, and the latter, according to article 142, will answer before the National Council for those matters corresponding to the Federation; and before the *Länder* Parliaments for those matters under their legislative powers.⁵⁵

⁵³ Vid. Seidl-Hohenveldern, Ignaz: Los *Länder* austríacos y la Unión Europea. In: *La acción exterior y comunitaria de los Länder, Regiones, Cantones y Comunidades Autónomas*, Vol. I, IVAP, 1994, 173-200.

⁵⁴ Código Comparado, IVAP-Gobierno Vasco, 1996, "La acción exterior y comunitaria de los Länder, Regiones, Cantones y Comunidades Autónomas", Vol. II, p. 58. This constitutional provision was introduced by an Act of constitutional amendment of 29 November 1988, BGBl n° 53, 20 December 1988.

⁵⁵ Ibid. The *Länder* representative deals with this position due to its constitutional recognition. The important point relies in the position of this representative who will respond for the negotiation management before the Federal Council whenever those were on behalf of federal competencies, whereas his responsibility is requested before the *Länder's* Parliaments when he acts on behalf of the legislative powers of the *Länder*.

The situation of Belgium in this field is also remarkable for the case of Wallonia⁵⁶ and Flanders⁵⁷. The Belgium regime has a wide reference to the regional question regarding EU law, either in the Constitution or in the successive amendments thereon, as well as within the new rules and intergovernmental agreements approved to regulate the process.

- Arts. 127, 128 & 130 of the Belgium Constitution: Treaty making power and international cooperation of the Governments of Wallonia and Flanders.
- Art. 167: King's competencies on international relations, notwithstanding the competencies of Wallonia and Flanders for treaty making power and international cooperation within certain competencies, with the regulatory scheme thereon. This provision constitutionally recognises a real and practical example of co-sovereignty.
- Art. 168: duty of direct information to the Regional and Community Councils on any negotiation or amendment of the EC-EU treaties. Pursuant to the extension made by article 1.1 of the Special Act of 5-5-1993.
- Art. 169: constitutional mechanism for substitution of Regions or Communities failing to comply with EU and/or international obligations, even during procedures before the CJEU. This means clearly that Sub-State entities in Belgium do have a certain position mainly as defendants at the CJEU, and within another practical example of real co-sovereignty.⁵⁸

⁵⁶ Vid. Berhoumi, Mathias: Wallonia. In: Turp et al. 2016 *op. cit.*

⁵⁷ Vid. Maddens, Bart: Flanders. In: Turp et al. 2016 *op. cit.*

⁵⁸ Van Boxstael, Jean Louis: La participación de las Comunidades y Regiones belgas en la elaboración y ejecución de decisiones de la Unión Europea. In: *La acción exterior y comunitaria de los Länder, Regiones, Cantones y Comunidades Autónomas*, Vol. I, IVAP, 1994.

5 The International Court of Justice (ICJ) recognises the right to self-determination⁵⁹

The ICJ Judgment on Eastern Timor, 30 June 1995 (Portugal v. Australia) is worth noting, where the right is considered *erga omnes* with an interesting historical evolution as one of the main principles of modern international law (legal ground 29).⁶⁰ In this judgment there is a remarkable dissenting opinion signed by Judge Weeramantry who underlines the recent and constant evolution of the right to self-determination.⁶¹

Weeramantry underlines the pivotal nature of this right for international law and its assumption by all sources of law including customary law, the general principles of law and the case-law. He also believes that it is located at the central point of the UN Charter as one of the main principles of the Charter and the relations among nations with regard to article 55 of the UN Charter.⁶² In a similar sense for the different opinions of State's representatives at the UN on the Declaration on peaceful relations between nations.⁶³

Another interesting opinion on the ICJ Judgment on Timor was made by Judge Vereshchetin. He assumed the necessity to give a voice and vote to the peoples of Timor on their situation because that is indeed the essence of the right to self-determination.⁶⁴ The judge is not suggesting that citizens may have a similar legitimation than the one of the State but he affirms that in order to get a fair knowledge of the

⁵⁹ Vid., on Western Sahara, the ICJ Consultative Opinion of 16 October 1975 and Soroeta, Juan: "El conflicto del Sahara Occidental, reflejo de las contradicciones y carencias del Derecho Internacional", UPV/EHU, 2001.

⁶⁰ Vid., two diverging opinions: Weinstock, Daniel: Constitutionalizing the Right to Secede. In: *Journal of Political Philosophy* num. 9-2, 2001; and Sunstein, Cass: Debate: Should Constitutions Protect the Right to Secede? A reply to Weinstock. In: *Journal of Political Philosophy* num. 9-3, 2001.

⁶¹ ICJ judgment on Eastern Timor, 30 June 1995 (Portugal v. Australia) at page 192.

⁶² *Ibid*, 194.

⁶³ *Ibid*, 196-197.

⁶⁴ *Ibid*, 135.

case, the court would need to know to what extent the population of Timor agrees with the demands of Portugal.⁶⁵

“in the concrete situation it must be looked at to see whether the interests of an administering power (if as is usual, it is still in effective control), or any other power, really coincide with those of the people”.⁶⁶

According to Vereshchetin there is a clear evolution of the right to self-determination and there is a need to consult the affected society:⁶⁷

“The United Nations Charter, having been adopted at the very outset of the process of decolonization, could not explicitly impose on the administering Power the obligation to consult the people of a non-self-governing territory when the matter at issue directly concerned that people. This does not mean, however, that such a duty has no place at all in international law at the present stage of its development and in the contemporary setting of the decolonization process, after the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV)).

In the Western Sahara Advisory Opinion, the Court states that:

“in certain cases the General Assembly has dispensed with the requirement of consulting the inhabitants of a given territory” (I.C.J. Reports 1975, p. 25, para. 59; emphasis added). By implication, it means that, as a rule, the requirement to consult does exist and only “in certain cases” may it be dispensed with. The exceptions to this rule are stated in the same dictum of the court and, as has been shown above, they could not be held to apply

⁶⁵ *Ibid.*, 135.

⁶⁶ *Ibid.*, 136.

⁶⁷ *Ibid.*, 138.

in the present case. I believe that nowadays the mere denomination of a State as administering Power may not be interpreted as automatically conferring upon that State general power to take action on behalf of the people concerned, irrespective of any concrete circumstances”.

Another remarkable opinion was given by Judge Skubieszewski:

“134. The Court states that the principle of self-determination “is one of the essential principles of contemporary international law”. The right of peoples to self-determination “has an erga omnes character”. The Court describes the relevant assertion of Portugal as “irreproachable” (Judgment, para. 29). The Court also recalls that “it has taken note in the present Judgment (para. 31) that, for the two Parties, ... [the] people [of East Timor] has the right to self-determination” (para. 37). It is a matter of regret that these important statements have not been repeated in the operative clause of the Judgment.

135. In the opinion of Judge Bedjaoui, President of the Court, self-determination has, in the course of time, become “a primary principle from which other principles governing international society follow” (un principe primaire, d’où découlent les autres principes qui régissent la société internationale). It is part of jus cogens; consequently, the “international community could not remain indifferent to its respect” (“la communauté internationale ne pouvait pas rester indifférente à son respect”). States, both “individually and collectively”, have the duty to contribute to decolonization which has become a “matter for all” (“une affaire de tous”).⁶⁸ According to Judge Ranjeva “[t]he inalienability of the rights of peoples means that they have an imperative and absolute character that the whole international order must

⁶⁸ Bedjaoui, Mohamed : In: J. P. Cot and A. Pellet (eds.), *La Charte des Nations Unies*, 2nd ed. Paris: Economica. 1991, 1082-1083.

observe”.⁶⁹ Judge Mbaye interprets self-determination in conjunction with “the principle of inviolability of borders”.⁷⁰ That link additionally emphasizes the incompatibility of the forcible incorporation of a non-self-governing territory with the requirement of self-determination.

138. The Friendly Relations Declaration provides as follows: Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle ...”

Self-determination creates a responsibility not only for those who are directly concerned”.⁷¹

Therefore, within the transition from autonomy towards self-determination we could observe the following characters of the right to self-determination:

- a) It is an individual and collective right;
- b) Its guarantee is required in order to comply with the rest of Human Rights in force;
- c) In order to exercise this right, there is also a need to comply with the rest of Human Rights as a central requirement linked with point f);

⁶⁹ Ranjeva, Raymond: “Peoples and National Liberation Movements”, in: M. Bedjaoui (ed.), *International Law: Achievements and Prospects*, Unesco-Nijhoff, Paris and Dordrecht, 1991, 105, para. 16.

⁷⁰ Mbaye, Keba: Introduction [to Part Four, Human Rights and Rights of Peoples], in: M. Bedjaoui (ed.), *International Law: Achievements and Prospects*, Paris and Dordrecht: Unesco-Nijhoff. 1991, 1055, para. 62.

⁷¹ Vid. paragraphs 79, 81 y 84 of the ICJ Consultative Opinion on the Independence of Kosovo, 22-7-2010. Christakis, Theodore opinion diverges from the Consultative Opinion, “The ICJ Advisory opinion on Kosovo: has international Law something to say about secession?”, *Leiden Journal of International Law*, 24. I, 2011.

- d) It is in force according to International Law and its objective is the political determination of a political community;
- e) the procedure therefore requires the positive determination of the territory and community affected;
- f) the real recognition of its international effects requires political negotiation likewise it happened in the remarkable cases of the referendums celebrated in Scotland and Québec, and effective recognition by International Law or third parties.⁷²

6 Conclusions

The point of reference of “constitutional unity” as a limit of autonomy and, eventually, self-determination, should be analysed within the binding legal regime of the international protection of Human Rights, and by extension as a tool for the enjoyment of Human Rights for all individuals, and not within the classic concept of a State’s sovereignty. The role of international law and European Law therefore is a key point for studying autonomy and self-determination in the EU.

There is a series of emerging factors within the EU that are generating shifts in the concept of sovereignty. This perspective, however, seems to be different at the domestic level in the decentralised States towards their Sub-State entities. The new sovereignty in the EU is shared by the Member States, while sovereignty at domestic level is only relatively shared within decentralised Member States, even though federal

⁷² For a comparative historical view on Scotland and Catalonia, Vid. Elliot, John: “Scots and Catalans”, Yale University Press, 2018. Nevertheless, the political and legal approach made by the UK and Spain are extremely different: the Scottish referendum was negotiated and celebrated naturally, whereas in Catalonia it was forbidden by the Spanish government and courts and the Catalan political representatives were judged by the Supreme Criminal Court (Judgment 459/2019 of 14 October 2019) and sent to prison for periods of between 9 to 13 years. Moreover, another recent Judgment issued on 28 September 2020 by the Supreme Criminal Court (Appeal 203/2020) declared the legal disqualification of Catalonia’s Premier, Mr Torra, due to his decision not to comply with the order of the Spanish Electoral Board on removing certain symbols from the official venue of the Catalan Government. Therefore, it seems that new elections will be called soon in Catalunya.

countries, such as Austria, Belgium and Germany, exhibited useful examples on how to deal with this problem through constitutional amendments and domestic agreements. A similar approach could be applied for different European nations aspiring for internal or external forms of self-determination.

The EU framework is the fruit of an international treaty with all its main elements included. However, there is as well-founded demand for further integrating Sub-State entities by allowing their direct participation in the decision-making, enforcement and judicial implementation of EU law. Therefore, as an international organisation striving for more integration, the recognition of the right of Sub-State entities to take part directly in EU decision-making should follow by virtue of the recognition of these entities within the constitutions of EU member states.

Sub-State bodies are indeed active parts of the Member States, and by extension of the EU: if the legislation or administrative enforcement made by a Sub-State body does not comply with EU law, the State would become accountable thereon. This means that there is still a necessity for recognition of Sub-State bodies to take part in the decision-making, implementation and enforcement processes of EU law.

At the EU we are facing a global framework of interlinked States with mutual relations on the basis of a series of principles, objectives and systems for control and monitoring of administrative and judicial levels. This minimum common ground at the EU overcomes the classic competence on international relations, and demands direct participation of the rest of the entities composing States, in particular those ones with legislative powers, to take part in the whole system as key actors therein.

The consideration of the EU as a sum of wills coming from different States with domestic constitutional particularities, should produce an EU assumption of Sub-State participation that would somehow be the fruit of those democratic wills towards the domestic constitutional levels, but also towards the foreign scope of them, within the EU.

The EU sum of constitutional agreements proved to be a path for recognition of Human Rights at the European level. There is, therefore, a presumption of mutual trust in order to protect Human Rights at every domestic level. If that process has happened in such an important area of our legal systems, the same mutual confidence should be granted to the peculiarities of each domestic constitutional level, likewise legislative and executive decentralisation with autonomy or, eventually, a clear will towards the exercise of self-determination.

The existence of an adequate political will is enough to introduce the constitutional amendments required to let Sub-State nations directly participate and defend their competencies before the EU. That is not at all in breach of the sovereignty principle nor will it interfere with the general interests to be represented by the State's central government.

Bibliography

- Bedjaoui, Mohammed: *Commentaire article par article*. In: J.-P. Cot and A. Pellet (eds.), *La Charte des Nations Unies*, 2nd ed., Economica, Paris: 1991.
- Bengoetxea, Joxerramon: Nationalism and self-determination: the Basque case. In: Twining, William (ed.): *Issues of Self-Determination, (Enlightenment, rights and revolution series)*. Aberdeen: Aberdeen University Press. 1991
- Carrillo Salcedo, José Antonio: Sobre el pretendido «derecho a decidir» en Derecho Internacional contemporáneo. In: *El Cronista del Estado social y democrático de Derecho*. n.º 33. 2012.
- Christakis, Theodore: The ICJ Advisory opinion on Kosovo: has International Law something to say about secession? In: *Leiden Journal of International Law* 24. I. 2011.
- Elliot, John: *Scots and Catalans*. Yale University Press. 2018.
- Ezeizabarrena, Xabier: Scottish Devolution and Basque Historical titles: two legal paths towards co-sovereignty. In: *Scottish Affairs* n.º 80. summer 2012.
- Ezeizabarrena, Xabier - Conversi, Daniele: Autonomous Communities and Environmental Law: the Basque Case. In: Akbulut, Olgun – Aktoprak, Elcin (eds.): *Minority self-government in Europe and the middle East, Studies in International Minority and Group Rights*. Leiden-Boston: Brill-Nijhoff. 2019.
- Gregg, Benjamin: A socially constructed Human Right to self-determination of indigenous peoples. In: *Deusto Journal of Human Rights* 1. Pedro Arrupe Human Rights Institute. 2016.
- Guimón, Julen: *El derecho de autodeterminación. El territorio y sus habitantes*. Bilbao: Universidad de Deusto. 1995.
- Hannum, Hurst: *Autonomy, sovereignty and self-determination. The accommodation of conflicting rights*. University of Pennsylvania Press. 1990.
- Herrero de Miñón, Miguel: *Derechos Históricos y Constitución*. Taurus. 2000.
- Jauregi, Gurutz: La globalización y sus efectos en el principio de soberanía, In: Castells, José Manuel - Iriondo, Xabier (eds.): *La institucionalización jurídica y política de Vasconia*. Eusko Ikaskuntza, Colección Lankidetzan, 1997
- Keating, Michael: Self-determination, multinational states and the transnational order. In: Walt van Praag, Michael C. van (ed.): *The Implementation of the Right to Self-determination as a Contribution to Conflict Resolution*. Barcelona: UNESCO Catalunya, 1998.
- Keating, Michael: *The independence of Scotland*. Oxford University Press. 2009.

- Kymlicka, William: Linking self-determination and Human Rights: comments on Peter Jones (2015), In: Adam Etinson (ed.): *Human Rights; moral or political?* Oxford University Press. 2016.
- Lafourcade, Maite: Las instituciones tradicionales y públicas de la Vasconia continental [online]. *Euskonews & Media* n.º 38. Available from: www.euskonews.com, accessed: 2020. 11. 23.
- Loperena, Demetrio: Unidad constitucional y actualizaciones generales y parciales de los Derechos Históricos. In: *Jornadas de Estudio sobre la actualización de los Derechos Históricos vascos*. UPV/EHU. 1985.
- Mancini, Sussana: Secession and self-determination. In: Rosenfeld, Michel - Sajó András (eds.), *Oxford Handbook of Comparative Constitutional Law*. Oxford: Oxford University Press. 2012.
- MacCormick, Neil: Is nationalism philosophically credible? In: Twining, William (ed.): *Issues of Self-Determination (Enlightenment, rights and revolution series)*. Aberdeen: Aberdeen University Press. 1991.
- Maccormick, Neil: *Questioning sovereignty*. Oxford University Press. 2001.
- Mbaye, Keba: Introduction [to Part Four, Human Rights and Rights of Peoples]. In: Bedjaoui, Mohammed (ed.): *International Law: Achievements and Prospects*. Paris and Dordrecht: Unesco Nijhoff. 1991.
- Michalska, Anna: Rights of peoples to self-determination in international law. In: Twining, William (ed.): *Issues of Self-Determination (Enlightenment, rights and revolution series)*. Aberdeen: Aberdeen University Press. 1991.
- Mueller, Charlotte: Secession and self-determination: remedial right only theory scrutinised. In: *POLIS Journal* n.º 7. 2012.
- Pentassuglia, Gaetano: Assessing the consistency of Kurdish democratic autonomy with International Human Rights Law. In: *Nordic Journal of International Law* 89. 2020.
- Ranjeva, Raymond: Peoples and National Liberation Movements. In: Bedjaoui, Mohammed (ed.): *International Law: Achievements and Prospects*. Paris and Dordrecht: Unesco Nijhoff. 1991.
- Ruiz Vieytez, Eduardo: Réflexions sur la nature de l'autodétermination de la perspectiva des droits de l'homme. In: *Les Cahiers du Centre de Recherche Interdisciplinaire sur la Diversité* n.º 3. CRIDAQ. 2012.
- Ruiz Vieytez, Eduardo: Regulando el derecho a decidir: una propuesta. In: *Naciones y Estados en el siglo XXI. Cuadernos RIEV* n.º 11. Eusko Ikaskuntza, 2015.

- Seymour, Michel: Secession as a remedial right. In: *Inquiry: An interdisciplinary Journal of Philosophy* n.º 50. 2007.
- Soroeta, Juan: El conflicto del Sahara Occidental, reflejo de las contradicciones y carencias del Derecho Internacional. UPV/EHU. 2001.
- Sunstein, Cass: Debate: Should Constitutions Protect the Right to Secede? A reply to Weinstock. In: *Journal of Political Philosophy* n.º 9-3. 2001.
- Thurer, Daniel - Burri, Thomas: *Self Determination*. Max Planck of Public International Law. University of Oxford. 2008.
- Verdross, Alfred: *Derecho Internacional Público*. Aguilar. Madrid: 1957.
- Vidmar, Jure: Remedial secession in International Law : Theory and (Lack of) practice. *St. Antony's International Review* n.º 6-1. Oxford: 2010.
- Various authors (VV.AA): Turp, Daniel - Sanjaume Calvet, Marc (eds.): *The emergence of a democratic right to self determination in Europe*. Brussels: Centre Maurice Coppieters, 2016.
- VV.AA: La acción exterior y comunitaria de los Länder, Regiones, Cantones y Comunidades Autónomas, In: *Vol. I. IVAP*. 1994.
- VV.AA: Naciones y Estados en el siglo XXI: democracia y derecho a decidir. *Revista Internacional de Estudios Vascos*. In: *Cuadernos* n.º 11. 2015.
- Weinstock, Daniel: Constitutionalizing the Right to Secede. In: *Journal of Political Philosophy* n.º 9-2: 2001.

Chapter II

Trianon 100 – Centenary of a Decision that Reshaped Europe

- 1. Lothar Höbelt:** No “Road to Canossa” and no “Death Warrant”: The End of Austria-Hungary Revisited
- 2. Tibor Glant:** The Inquiry and the Paris Peace Conference: American Preparations for Peace and the Future of Hungary, 1917-1920
- 3. Patrik Szeghő:** Yugoslav Unity and the Dissolution of Austria-Hungary

*Lothar Höbelt**

NO "ROAD TO CANOSSA" AND NO "DEATH WARRANT": THE END OF AUSTRIA-HUNGARY REVISITED

1 The Sixtus Affair

Just as the great German push in the West came to a halt a few miles in front of Amiens, in the first few days of April 1918, Austro-Hungarian Foreign Secretary Count Ottokar Czernin gave a punch-drunk speech in the Vienna city hall. Czernin seemed eager to prove that the Entente was unwilling to consider a peace on *status quo ante bellum* terms. That's why he indiscreetly referred to the French contacts with Austria the year before. French Prime Minister Georges Clemenceau retaliated by publishing one of Emperor Charles' letters to his brother-in-law, Prince Sixtus of Bourbon-Parma, who served with the Belgian army. In this letter, written almost a year ago, Charles referred to the French claims to Alsace-Lorraine as "just". Losing his nerve, Czernin first forced Charles to deny the authenticity of the letter; then suggested the Emperor should take some time out and think about appointing a regency. Instead, Charles accepted Czernin's resignation on 14 April 1918 and tried to mend fences with his German allies on his own.¹

This so called "Sixtus Affair" has often been regarded as the final straw in Austria-Hungary's submission to her big brother Germany.² Charles' subsequent visit to the German headquarters in Spa, has been compared to a "Canossa-Gang", the (in)famous submission of Emperor Henry IV to Pope Gregory VII in 1077. References to Canossa

* Associate professor at the History Department of the Faculty of Historical and Cultural Studies of the University of Vienna, lothar.hoebelt@univie.ac.at.

¹ Höbelt, Lothar: "Stehen oder Fallen?" *Österreichische Politik im Ersten Weltkrieg*. Vienna: Böhlau. 2015, 230-236.

² To quote just a few examples: Urban, Otto: *Die tschechische Gesellschaft*. Vienna: Böhlau. 1994. 908.

had been plentiful during the years of the “Kulturkampf”, the ongoing struggle between the modern state and nascent political Catholicism. Bismarck popularised the term when he promised during a debate in the German parliament in 1872: “We won’t go to Canossa.”³ Curiously enough, few of those who used that reference in either context, seem to have realized that Henry’s “pilgrimage” to Canossa had turned out to be rather an astute move. It had neutralized the Pope during a period of upheaval within the Empire. But casual readers of history with an anti-clerical axe to grind preferred the image of the kneeling Emperor in his shirt of hair, who according to legend had waited bareheaded in the snow for three days, to the reality of a clever politician who had just outwitted a dangerous rival.⁴

The German public may have been shocked when they read that Charles had referred to the “*justes revendications*” of the French to Alsace-Lorraine. But Wilhelm II and the German political elite had no reason to be surprised. That’s why Charles could not see why the Germans were so angry about it.⁵ After all, Charles and Czernin had been quite open about their proposal of bribing the French with Alsace, in return for a peace on the basis of the status quo ante – or perhaps not quite the status quo ante, because the Central Powers had in the meantime already promised Poland its independence. In fact, Charles even offered part of his own territories as an inducement, Austrian Silesia or Galicia as part of a German-dominated Poland. However, neither the Kaiser nor German Chancellor Theodor von Bethmann-Hollweg were tempted by the offer. They would only agree to border rectifications disguised as an exchange of territory in the West. Bethmann-Hollweg had become resigned to a peace with meagre results but not to an outright loss of territory.

³ For the context see Pflanze, Otto: *Bismarck and the Development of Germany, Vol. II: The Period of Consolidation, 1871-1880*. Princeton: UP. 1990. 185-206.

⁴ Weinfurter, Stefan: *Canossa: Die Entzauberung der Welt*. Munich: Beck. 2006, 19-25, 146-157.

⁵ Diary of Princess Henriette Hohenlohe, 17 April 1918. I am grateful to Herbert Fischer-Colbrie for granting me access to the diaries.

Even worse, the offer had found no takers on the side of the Entente. The return of Alsace-Lorraine might be satisfactory in terms of French domestic politics, in terms of the larger strategic picture it was pretty useless. French politicians of almost every stripe seemed to think, probably rightly so, that an admission that Germany had successfully fought off almost all the rest of Europe, was tantamount to accepting its hegemonial role in Europe.⁶ Moreover, the spring of 1917, when Charles had launched his peace offensive, was probably the worst possible moment to do so. Germany had just gambled everything on the success of unrestricted submarine warfare. As a result, Britain and France could look forward to being bailed out by the US (if only they managed to survive the U-boats). Or, as the French Commander-in-Chief Philippe Pétain put it: "Wait for the tanks – and the Americans."⁷ In the late autumn of 1916, peace proposals had been debated almost everywhere, but in the meantime the stakes had been upped. Why be content with a compromise peace, if victory might be lurking just around the corner, after all.

Czernin in his more hysterical moments had loved to threaten his Emperor with the prospect of a German army, launched for an invasion of Austria, in case Germany had reason to doubt the loyalty of her ally.⁸ That army was a figment of his imagination. With resources stretched tight between the crucial battle in the West and the beckoning of an Empire in the East, there simply were no extra divisions to be marched into Bohemia (or elsewhere). Nor did the Kaiser and his entourage take Charles' indiscreet remarks all that seriously. They were taken for what they were – a way to win the confidence of his French interlocutors, a *captatio benevolentiae* to pump-prime the abortive negotiations of

⁶ Stevenson, David: *French War Aims against Germany, 1914-1919*. Oxford: Oxford University Press. 1982, 54, 73, 105; Steglich, Wolfgang (Ed.): *Die Friedensversuche der kriegführenden Mächte im Sommer und Herbst 1917*. Quellenkritische Untersuchungen, Akten und Vernehmungsprotokolle. Stuttgart: Steiner-Verlag-Wiesbaden-GmbH. 1984.

⁷ Quoted in Gooch, John: *The Italian Army in the First World War*. Cambridge: Cambridge University Press. 2014, 263.

⁸ The idea went back to a wild boast made by Wilhelm to Prince Hohenlohe in the summer of 1917. See the unpublished manuscript by Ottokar Czernin, *Die Brief-Affaire*, aktenmäßig zusammengestellt, 12. (copy in possession of the author).

yesteryear. Sixtus was not supposed to have handed over the letter to the French, just to read excerpts from it. Thus, when Charles denied he had written that letter, he acted in a tradition that allowed confidential notes to be disowned, once they had been “leaked”.⁹ However, crisis management in Vienna was undoubtedly poor. It put Charles into a position where he was widely seen to have been economical with the truth. But that was no reason why the Germans should have doubts about his loyalty to the Dual Alliance.

2 The Myth of the “vassal state”

German Foreign Secretary Kühlmann’s advice to Wilhelm II was to adopt “a noble and magnanimous attitude” towards his ally.¹⁰ Fortunately, the ‘Kaiser’ himself seemed to prefer a rational approach to an emotional one, for once. He threw a fit of temper, when he first read the text of Charles’s letter and for a moment even thought that Czernin’s dismissal might spell the end of the alliance, but soon came around to appreciate the unwelcome news as a blessing in disguise. He did not confide in his generals with their anti-Austrian prejudices, but waited for the advice of Chancellor Hertling who had always been sympathetic to Charles.¹¹ Kühlmann, too, suggested that Wilhelm should be kind but firm with Charles who was to be left with a feeling that he had to make amends to Germany one way or another. Thus, within the limits of the tug-of-war that had been going on for the

⁹ That was exactly the position adopted by the court of Wilhelm II when they first heard about the famous letter. Scherer, Andre - Grunewald, Jacques (eds): *L’Allemagne et les problèmes de la paix pendant la Première Guerre Mondiale* (=APP), Vol. 4. Paris: Presses universitaires de France. 1978, 104 (12 April 1918).

¹⁰ APP IV 104, 108.

¹¹ A detailed description of Wilhelm’s reaction can be found in Fürstlich Fürstenberg’sches Archiv Donaueschingen, War Diary of Prince Max Egon II, 12-17 April 1918. Fürstenberg, with estates in both Swabia and Bohemia, was a member of both the Austrian and the Prussian House of Lords. He counted as a personal friend of Wilhelm II.

last three years, Germany might still try and profit from her ally's discomfiture.¹²

During the last three years most of the debates between Austria-Hungary and Germany had centred on two related topics: Mitteleuropa and the future of Poland. Austria had staked her claim to Poland early on; Germany had only half-heartedly consented and made her consent dependent on strengthening the ties between the two Empires into a coherent Central European Bloc ("Mitteleuropa").¹³ "Mitteleuropa" had been a project of the middle-of-the-roaders on both sides. On the one hand, the Habsburgs – both Francis Joseph and even more so, Charles – were generally unwilling to part with even a bit of their sovereignty in favour of something smacking of "ever closer union". On the other hand, died in the wool Prussians did not want to be fettered to a corpse like the Habsburg monarchy, as Hindenburg once put it. Polish independence, as promised in November 1916, with German influence preponderant, had been the alternative to the Siamese twins of Mitteleuropa and the Austro-Polish solution.¹⁴

It was Czernin and Kühlmann, the two newly appointed Foreign Secretaries, who had resurrected the Austro-Polish solution in late 1917. Kühlmann wanted the Austrians to help him fight the unreasonableness of his generals; Czernin wanted German help in combating the unreasonably optimistic views of some of his Emperor's advisers who saw openings of peace avenues where in fact there were none. The deal was: German fears about the unreliability of a predominantly Slav Habsburg Empire would be pacified by a commercial treaty and a military convention. In return, the Habsburgs would get all of (former) Russian Poland, as any further dismemberment of Congress Poland would only serve as an irritant, thus undermining the legitimacy of

¹² APP IV, 136-137 (Kühlmann to Hertling, 5 May 1918).

¹³ Kapp, Richard W. -Hollweg, Bethmann: Austria-Hungary and Mitteleuropa, 1914-1915. In: *Austrian History Yearbook 19/20 (1983/84)*, 215-236; The best summary is: Müller, Achim: *Zwischen Annäherung und Abgrenzung. Österreich-Ungarn und die Diskussion um Mitteleuropa im Ersten Weltkrieg*. Marburg: Tectum. 2001.

¹⁴ Höbelt, Lothar: The Austro-Polish Solution: Mitteleuropa's Siamese Twin. In: Jean-Paul Bled - Jean-Pierre Deschodt (eds.): *Le crise de juillet 1914 et l'Europe*. Paris: Editions SPM. 2016, 125-136.

Charles' position as a future king of Poland (on 29 January, the Warsaw Regency actually decided to offer him the Polish crown).¹⁵

Czernin had a hard time selling the deal to Charles, just as Kühlmann faced an up-hill battle against Ludendorff who insisted on keeping part of Poland as a security corridor. But a few days before the Sixtus Affair broke, Charles had actually drafted a letter to Wilhelm, that followed the gist of Czernin's argument.¹⁶ A week later, Czernin was on his way out – and a few weeks later, on 12 May, Charles was on his way to Spa, the famous “pilgrimage to Canossa”. Prince Gottfried Hohenlohe, the Austro-Hungarian ambassador to Berlin,¹⁷ did indeed say he'd rather take part in an attack on the front, without gasmasks, than join that entrevue. But the reason why he felt like that had nothing to do with the Sixtus letters, but with an act of “piracy” the Austrians had committed on the Danube. They had simply impounded no less than fifty-five German barges loaded with grain, to provide food for the hungry Viennese. Hertling, even though generally a favourite of the Austrians, was livid with fury, when he heard about it.¹⁸

But, lo and behold, the atmosphere in Spa turned out to be far better than Hohenlohe had expected. Both the monarchs did their best to be nice to each other. Hohenlohe noted that Charles was quite relieved at the outcome. But what exactly was the outcome of the Spa meeting? Official sources on the Austrian side do not provide any hint about the negotiations. The Ballhausplatz noted drily: “Our archive has

¹⁵ Meckling, Ingeborg: *Die Aussenpolitik des Grafen Czernin*. In: *Österreich Archiv*. Vienna: Verlag für Geschichte und Politik. Munich: R. Oldenbourg Verlag. 1969; Bihl, Wolf-Dieter: *Österreich-Ungarn und die Friedensschlüsse von Brest-Litowsk*. In *Studien zur Geschichte der österreichisch-ungarischen Monarchie*, Vol. VIII. Vienna: Böhlau. 1970.

¹⁶ Haus-, Hof- und Staatsarchiv (=HHStA), Politisches Archiv (=PA) I 1039, Liasse LVI, fol. 146-148 (= APP IV 90-92).

¹⁷ Hannig, Alma- Hohenlohe, Gottfried. In: Alma Hannig - Martina Winkelhofer (eds.): *Die Familie Hohenlohe. Eine europäische Dynastie im 19. und 20. Jahrhundert*. Cologne: Böhlau. 2013, 228-268.

¹⁸ Diary of Princess Henriette Hohenlohe 6/7 May 1918; Landwehr von Pragenau, Ottokar: *Hunger. Die Erschöpfungsjahre der Mittelmächte 1917/18*. Zurich: Amalthea. 1931, 191-196.

not received any minutes about the negotiations in Spa."¹⁹ The two monarchs had obviously talked about "Mitteleuropa": Their alliance should be prolonged for another twenty-five years. They had talked about a military convention and about a commercial treaty. The one loss the Austrians seemed to have suffered, compared with their negotiating position prior to the uproar about the Sixtus letters, was that Charles had apparently relinquished his claims to the crown of Poland. That at least was the impression Hohenlohe got when he joined the Emperor for part of the way on the ride home.

Admittedly, Charles had never been that keen Poland. (Remember, he had offered all of Poland, including Galicia, to Germany, as a *quid pro quo* if they would let go of Alsace-Lorraine.) Hohenlohe also noted that the one man who seemed to be less than happy with that result was Count Istvan Burian, Czernin's successor (and predecessor) as Foreign Secretary.²⁰ Burian had none of the easy-going and sometimes treacherous charm of Berchtold and Czernin. He was infamous for his tactic of boring everyone to death with his endless monologues: "Impossible to get a word in", as Hohenlohe once complained.²¹ 1918 saw Burian at his best, or at his worst, depending on whether you were at the receiving end of his lectures. Burian had realized that the drift of the Spa meeting was not to his liking. But he insisted that after all, no formal decision had been taken and no document signed. For him, the result boiled down to a verbal "pactum de contrahendo", an undertaking to come to an agreement, sooner or later. In particular, Burian denied that Charles had given up on his plan to accept the Polish crown.²² He insisted that the "smooth execution" of the Polish question was an "inescapable" pre-condition of any Austrian concessions on

¹⁹ HHStA, PA I 505, Liasse XLVII/3-23, fol. 18 f.

²⁰ Hohenlohe Diary 13 May 1918. This particular entry actually was in Gottfried's hand, not that of his wife!

²¹ HHStA, NL. Berchtold 4, Hohenlohe to Berchtold, 18 Oct. 1915.

²² HHStA, PA I 1015, fol. 102, notes of a meeting between Flotow and Wedel, 19 May 1918. In fact, Ludendorff supported Burian's position when he told the German Crown Prince that all the rumours that the Austro-Polish solution had finally been discarded, were wrong (APP IV, p. 168).

other matters. A month later (11/12 June) Burian visited Berlin to present the Austrian case. Burian was sure his arguments had made a big impression on the Germans; it is likely they were exhausted rather than convinced.²³

Theoretically, of course, it was all up to the Poles to elect whomever they wanted as their new king. The Germans tacitly admitted the strength of the Austrian position when they tried to put a good face on the matter, actively canvassing Polish public opinion to persuade them to opt for a Prussian candidate.²⁴ But their efforts were to no avail. The Poles did not trust the Habsburgs very far, certainly not after Czernin had shocked them by handing Cholm to the Ukraine in the treaty of Brest-Litowsk.²⁵ But faced with the prospect of falling prey to either Lenin or Ludendorff, they were bound to regard Charles and the Austrians as a lesser evil. With Charles as king of Poland, they may have hoped that they could rely on almost automatic Austrian support in any future disputes with Germany. The Polish Prime Minister Jan Steczkowski even did his best to persuade the Austrian Poles in the Vienna parliament to forget their grudges against the Seidler cabinet and give the government the benefit of the doubt.²⁶

Polish preferences for the Austro-Polish solution Mark II were actively supported by Cardinal Ratti, the future Pope Pius XI, who served as unofficial Papal legate to the emerging Polish state at the time.²⁷ In the summer of 1918, German diplomats still hoped to circumvent Burian's stubbornness by an appeal to Charles who had never been

²³ HHStA, PA I 505, Liasse XLVII/3-12, telegram 93, fol 30 f.; for the German version of the meeting see APP IV, pp. 198-203 (11/12 June 1918).

²⁴ The Prussian candidate actually turned out to be an Austrian Archduke, Charles Stephen, with his castle at Zywiec, and a number of Polish sons-in-law. But he turned the offer down.

²⁵ Kindler, Klaus: *Die Cholmer Frage 1905-1918*. Frankfurt/M.: Lang. 1990. Höbelt 2015 *op. cit.*, 222-228.

²⁶ HHStA, PA I 1023, Bericht 137-B/P, 11 June 1918; Statni Oblastni Archiv (SOA) Zamrsk, Diaries of Baron Oskar Parish v. Senftenberg, 10 March 1918.

²⁷ HHStA, PA I 1039, telegram 668, 27 Aug. 1918; Marozzo Della Rocca, Roberto: *Achille Ratti in Polen 1918-1921*. In: Zedler, Jörg (ed.): *Der Heilige Stuhl in den internationalen Beziehungen 1870-1939*. München: Herbert Utz Verlag. 2010. 249-284.

all that enthusiastic about the Austro-Polish solution. They hoped the Emperor could be persuaded to dismiss Burian.²⁸ But in September, the Germans admitted defeat, at least provisionally. „In the final weeks of the war, Burián's efforts actually did achieve German agreement to an Austro-Polish solution of sorts“. At that time, of course, Burian's clinching arguments already read: It was necessary to create a state of things that was satisfactory enough for the Poles so that eventually the entente would not find it all that easy to change it.²⁹

But what about Mitteleuropa? There were a few drafts floating around about the new *Zweibund*.³⁰ In a certain way, the terms were less stringent than the original. The *casus foederis* would only be triggered, if one of the partners was attacked by at least two great powers. Austria-Hungary no longer shared a border with Russia proper. That's why they wanted to make sure the Ukraine was to be included amongst their potential enemies. On the other hand, the Austrians were afraid to be involved in overseas conflicts. They insisted at least one of the two enemy powers needed to be a European one. On 20 June, Burian happily noted that the second German draft had come much closer to Austrian wishes.³¹ But the Germans did not seem to be all that eager to pursue the subject any further. In mid-July, Burian wrote a minute stating that the Austrian side had honoured the wish to work for a speedy conclusion, but, alas, the Germans had not yet finished their own internal preparations. Two weeks later, Hohenlohe, too, complained about the „awfully slow and sluggish course of the negotiations“.³²

²⁸ APP IV, pp. 242 (8 July), 262 (28 July), 285 (15 August).

²⁹ HHStA, PA I 505, Liasse XLVII/3-26, notes of the meetings on 14/15 August and 3/4 Sept. 1918, fol. 178-193; Shanafelt, Gary: *The Secret Enemy. Austria-Hungary and the German Alliance 1914-1918*. Boulder: University of Columbia Press. 1988, 200; APP IV, 297 (23 August), 328 (5 Sept.), 382-386 (24 - 28 Sept. 1918). On 21 September, Wedel actually did a U-turn and advised against any moves to have Burian dismissed (*ibid.*, 355).

³⁰ APP IV, pp. 195-197.

³¹ HHStA, PA I 505, Liasse XLVII/3-23, telegram 2997, fol. 122-133, Burian to Larisch, 20 June 1918.

³² HHStA, PA I 536. Mappe: Ausbau des Bündnisses, fol. 33-35 (15 July 1918); PA I 505,

There were several reasons why the Germans were not all that interested in clinching their deal with the Austrians. Even if claims that Germany was to all intents and purposes a military dictatorship at that time, are exaggerated, the Oberste Heeresleitung obviously had to be consulted. But while the great battle in the West was at its height, they simply could not be bothered. Or, as the diplomats put it, internal discussions had to be postponed because of the offensive in the West.³³ A few weeks later, on 24 June, Kühlmann fell into disfavour with the generals for publicly hinting at the failure of the offensive to achieve any decisive results. While privately admitting that Kühlmann had been right, Ludendorff still insisted on his dismissal.³⁴ On 9 July, Paul von Hintze, was appointed as Foreign Secretary. Burian soon had to deny reports that he had called Hintze a puppet of the generals, with no will of his own.³⁵ At any rate, Hintze left negotiations to his Undersecretary of State Hilmar von dem Bussche,³⁶ as he had not yet had any opportunity to study the matter closely.

In the meantime, Burian had inserted a poison pill into the negotiations about the renewal of the alliance. In June, the Austrians had promised to send a few of their divisions to the assistance of the Germans on the Western front. On 27 June, Burian took that pledge as a cue to revive one of Czernin's pet projects, a special treaty of interpretation that was supposed to define the duties of both partners

Liasse XLVII/3-23, Bericht 89 P/A-F, fol. 171-2, Hohenlohe to Burian 3 August 1918.

³³ HHStA, PA I 505, Liasse XLVII/3-23, fol. 136, communication of the German Embassy, 29 May 1918.

³⁴ Chancellor Hertling claimed Kühlmann would have survived in office if he had not been foolhardy enough to show up at General Headquarters within a few days of his controversial speech (HHStA, PA I 505, Liasse XLVII/3-23, telegram 340, Hohenlohe to Burian, 12 July 1918). Actually, the German Crown Prince had voiced similar ideas already in May (APP IV, p. 169).

³⁵ HHStA, PA I 505, Liasse XLVII/3-26, telegram 582, Burian to Hohenlohe, 14 Sept. 1918.

³⁶ Von dem Bussche had served as Czernin's colleague in Bukarest 1914-16, previously he had been Ambassador to Argentine. His daughter married the son of a good friend of Czernin, Austro-Bohemian Prince Kinsky – and retired to South America in 1940, after her husband's death.

during the current conflict more precisely.³⁷ He claimed the Austrians needed such an agreement in writing to plausibly deny any rumours that they were fighting for German expansionist war-aims. Hintze equally plausibly wondered how a secret agreement could be of any help in that respect.³⁸ The Zweibund was a defensive alliance. Thus, both partners were fighting to preserve their mutual possessions ("Besitzstand"). But the Austrians were eager to insert a special clause that this "Besitzstand" did not refer to minor colonial possessions that could easily be swapped for concessions elsewhere.³⁹ At the same time, they wanted to make sure that the terms of the Dual Alliance did not apply to the promises extended to their Bulgarian or Ottoman allies. The Germans were decidedly unhappy about these queries and dearly wanted to drop the subject. True to style, Burian could not be dissuaded.⁴⁰

The only negotiation that was actually concluded before the defeat of the Central Powers was the commercial treaty that was signed on 11 October. Negotiations had started in early July and taken place in Salzburg. The results turned out to be very favourable for the Austrians, indeed. There was going to be no customs union and thus no joint administration of tariffs.⁴¹ In a harbinger of times to come,

³⁷ HHStA, PA I 505, Liasse XLVII/3-23, telegram 409, Burian to Larisch, 27 June 1918. Kühlmann had still promised to deal with the matter speedily (Larisch's telegram 434 on 2 July 1918), while at the same time telling Wedel that he disliked the proposal (APP IV, p. 236).

³⁸ HHStA, PA I 505, Liasse XLVII/3-23, Bericht 82 P/B, fol. 181, Hohenlohe to Burian, 22 July 1918.

³⁹ In an earlier version of these negotiations, Burian had used the formula that in this respect of course Tsingtao (the German colony in China) could not be compared to Tarnopol (the Galician town at that time still occupied by the Russians).

⁴⁰ Burian claimed the promises to Turkey and Bulgaria had been given "unter der selbstverständlich stillschweigenden und geheimen Reserve des tamquam posse". HHStA, PA I 536, Botschaftsarchiv Berlin, Mappe: Interpretationsabkommen, Burian's telegrams to Hohenlohe No. 3368 (16 July), 3692 (1 August), reacting to Hohenlohe's reports on 18 and 22 July; a copy of Czernin's earlier draft of 15 February 1918 (fol. 41-43) and the German reply (fol. 33-40); APP IV, pp. 235 (2 July), 260 (22 July), 268 (3 August).

⁴¹ The Hungarians were said to have favoured a joint administration of tariffs (APP IV, p. 183).

the Germans had originally pushed for a synchronisation of domestic legislation on social security.⁴² That wish had been quietly shelved, too. The Austrians were allowed to keep some of their protective tariffs on industrial goods, but their agricultural exports faced no such barriers in Germany. The Austrian Minister of Commerce, Friedrich von Wieser, a wayward member of the famous Austrian School of Economics, was full of praise for his chief negotiator Richard Schüller. The treaty had fulfilled all of his wishes.⁴³

Of course, none of the diplomatic victories scored by Burian or Schüller had any bearing on future events. Only two weeks after the Salzburg agreement, on 27 October, Austria-Hungary had to ask for an armistice. But the whole course of events does show fairly conclusively that Austria-Hungary had certainly not suffered any dramatic reduction in status or influence as a result of the Sixtus Affair. If anything, Austria-Hungary had pursued a more independent line, in military affairs, too. In all the previous years, after the Carpathian battles in 1915, the Brusilov Offensive in 1916 or the 11th battle of the Isonzo in 1917, Austria-Hungary had been reduced to asking for German help to stave off military disaster. In 1918, after the collapse of Russia, Austria-Hungary could finally concentrate on fighting Italy. Once her own offensive across the Piave in June had been stopped, it was Austria-Hungary who sent a few divisions to the Western front to assist the Germans (who in turn promised to send some extra food to Austria).⁴⁴ In the autumn of 1918, Burian proudly noted that the Austrian front held fast, whereas the Germans were retreating in the West.⁴⁵ That was hybris, no doubt, but not the language of a down-

⁴² HHStA, PA I 505, Liasse XLVII/3-23, telegram 93, fol. 75 (12 June 1918).

⁴³ HHStA, Friedrich von Wieser diary 12 Oct. 1918; Soutou, Georges-Henri: *L'or et le sang. Les buts de guerre économiques de la Première Guerre mondiale*. Paris : Fayard. 1989, 710-724.

⁴⁴ Only four divisions were actually sent, two of them got into a fight with US units in September. For details see Maximilian Polatschek, *Österreichisch-ungarische Truppen an der Westfront 1914-1918* (unpubl. Ph.D. Thesis, Vienna 1974). After Caporetto, Charles had already consented to send a number of batteries of heavy artillery to the Western front (Hohenlohe diaries 3 Jan. 1918).

⁴⁵ Fürstlich Fürstenbergisches Archiv Donaueschingen, Max Egon, Mappe: Politik

trodden vassal. Reports about Austria-Hungary's "vassal status" vis-à-vis Germany were greatly exaggerated.

Thus, there are few indications that the Sixtus Affair or "the road to Canossa" had "sealed the fate of Austria-Hungary as an independent entity."⁴⁶ Of course, "independence" is a term that is open to all sorts of interpretations. Within the Dual Alliance, the Habsburg Monarchy had been the junior partner from the very beginning. Even worse, Austria-Hungary had fallen behind since the war started. Germany was slightly bigger than Austria-Hungary in terms of population (65 million vs. 54 million); but the Austrians had drafted a smaller percentage of their young men into the army than the Germans or the French; in terms of divisions Germany fielded roughly twice as many divisions as the Austrians in 1914, and more than three times as many in 1917-18 (roughly 240 vs. 70 to 80);⁴⁷ German output of steel was four or five times bigger than Austrian production (13-15 million tons vs. 3-4); in 1915 Germany had produced twice as many machine guns as Austria, in 1917 almost seven times as much (104.000 vs. 15.000).

Germany had to subsidise the Austrian economy throughout the war. Pleas for food had become a standard feature of Austro-German relations.⁴⁸ On top of that, in late 1918, Hohenlohe reckoned that Austria needed at least 50 million marks a month in credits.⁴⁹ But then, the Habsburg Empire had already been characterized as

im Kriege, notes of a conversation with Burian on 2 Oct. 1918.

⁴⁶ Shanafelt 1988 *op. cit.*, 188.

⁴⁷ The Austro-Hungarian army officially counted 66 infantry divisions in mid-1918. Dismounted cavalry divisions and independent brigades brought the fighting total to something between 75 and 80.

⁴⁸ Hohenlohe diaries, 29 April 1918; Broucek, Peter (Hg.)-von Zeynek, Theodor Ritter: *Ein Offizier im Generalstabskorps erinnert sich* (= *Veröffentlichungen der Kommission für neuere Geschichte Österreichs* 101). Vienna: Böhlau. 2009. 292-5; Windischgraetz, Ludwig: *Vom roten zum schwarzen Prinzen. Mein Kampf gegen das k.u.k. System*. Berlin: Ullstein Verlag. 1920. 226; Gratz, Gustav -Schüller, Richard: *Der wirtschaftliche Zusammenbruch Österreich-Ungarns*. Vienna: Hölder-Pichler-Tempsky A.G. 1930. 78.

⁴⁹ HHStA, PA I 505, Liasse XLVII/3-26, fol. 137, private letter of Hohenlohe to Burian, 11 Sept. 1918.

“proud beggars” a long time ago.⁵⁰ Indeed, one of the advantages of a close connection with Germany from the Austrian point of view was that this kind of support for the Austrian crown would continue in peace-time.⁵¹ Understandably, that was not a prospect that appealed to the German Reichsbank. Her President Havenstein warned the politicians that in such a case it was not going to be the Austrians who would follow in the wake of Germany, but Germany that would be fettered to a potential bankrupt.⁵² Thus, if Austria-Hungary’s position as one of the five traditional European great powers was slowly eroding, it was “profound forces” that were to blame, not the curious misunderstandings that followed from Czernin’s gaffe.

On the other side of the hill, power relations between the allies were more evenly balanced. Russia was superior in potential man-power, Britain in financial stamina. France had prevented the Germans from winning outright in 1914. After Russia had dropped out of the war, France provided the biggest army, Britain the biggest navy and the US crucial financial support. Within the Central Powers, Germany was clearly dominant, in military affairs, and even more so economically. Austria-Hungary was the junior partner of the Dual Alliance. Yet, the dependence thus engendered was mutual. Austria-Hungary could not have survived the war until 1918 without German support; but an Austrian collapse would have had grievous consequences for Germany, too. In many ways, both sides were eager to come to an agreement as long as that state of mutual dependence could be used as a lever for their own agenda. Once peace had been concluded, the Germans feared that the Austrians would be tempted to flirt with different partners, whereas the Austrians were afraid they would no longer be supported economically and financially.

⁵⁰ Anderson, M.S.: *The War of the Austrian Succession, 1740-1748*. Harlow: Longman 1996. 207 (quote by Henry Pelham in 1748).

⁵¹ That was the way the Austrian Minister of Finance Ferdinand Wimmer argued in Cabinet; Komjáty Miklós (ed.): *Protokolle des Gemeinsamen Ministerrates der Österreichisch-Ungarischen Monarchie (1914-1918)*. Budapest: Akadémiai Kiadó. 1966, 568 (6 & 15 Sept. 1917).

⁵² APP IV, p. 189.

This is where the collapse of Russia affected the German-Austrian relationship in more ways than one. Austria-Hungary simply became less important after Brest-Litovsk. If Austria-Hungary had dropped out of the war in 1915 (when Russian forces had almost crossed the Carpathian Mountains into Hungary) or in 1916 (when the Brusilov offensive led to the collapse of large sectors of the Austrian front),⁵³ Russia could have concentrated on fighting Germany. Thus, Falkenhayn or Ludendorff would have faced an extra 50 divisions, at a time when the Kitchener armies added strength to the Entente front in the West. If Austria-Hungary had dropped out of the war in April 1918, it would still have been inconvenient for the Germans, but no longer lethal. Most of the Austro-Hungarian army was busy fighting the Italians. But it was unlikely that Italy would send massive reinforcements to the Western front, even more so if she were to be deprived of some of her war-aims by allied concessions to the Austrians. The crucial question might have been: what about the Balkans? Would Germany still be able to use the Austrian railways? At a pinch, traffic to Bulgaria and Turkey could now be routed through the Ukraine and the Black Sea.

German hopes – and British fears – of being able to continue the war against the Western powers even if the big push in the West failed to achieve any decisive result, rested not on dominating Austria-Hungary, but on using the potentially huge resources of Russia. British planners certainly thought so, and they were worried. Any number of memoranda talked about the need to deny the Germans the resources of Siberia.⁵⁴ The Bolsheviks were supposed to be in the pocket of the Germans, anyway. Maybe that assumption has to be regarded as a self-fulfilling prophecy. However, in July 1918 Lenin actually did ask for German help. The Germans were none too enthusiastic at first but did toy with the idea of a joint expedition against the British at Murmansk. The supplementary treaty of 27 August certainly bound Germany and

⁵³ A. Tunstall, Graydon: *Blood on the Snow. The Carpathian Winter war of 1915*. Lawrence: University Press of Kansas. 2010; Dowling, Timothy: *The Brusilov Offensive*. Bloomington: Indiana UP. 2008.

⁵⁴ Kettle, Michael: *The Road to Intervention: March to November 1918*. London: Routledge. 1988, 12, 190, 374.

the Soviet Union closer together. It emphasized the common interests of both continental giants, in Baku and elsewhere.⁵⁵

True, the Germans were in two minds as to the best way of dealing with the Russian situation. The Foreign Office in the Wilhelmstrasse saw the Soviet regime as the best possible solution. The Kaiser and the military toyed with the idea of toppling the Soviet regime and substituting White Russians of a pro-German persuasion, Cossacks or whoever. Both the Germans and the allies started from the assumption that the Soviet regime could not last; that's why they both thought it advisable to establish good relations with their potential successors in time. The German Foreign Office, both Kühlmann and his successor Hintze, a former naval attaché to St Petersburg, were a little bit more down to earth in their determination to don't rock the boat and stick to the lesser evil, for the time being.⁵⁶ As far as Russia was concerned, they supported what might be called the "failed state strategy", i.e. a government "furthest to the Left, to prevent Russian consolidation, as far as possible."⁵⁷

Whatever their plans about Russia, whether they advocated sending troops against the British in Murmansk, to the shores of the Caspian Sea, or had fond hopes of sooner or later posing a threat to India, compared with the prospects opening up in the East, the Austrian perspective, including the Balkan perspective up to Baghdad, had been relegated to a secondary status. Maybe that was one of the explanations why Hindenburg was not all that interested in a close partnership with Austria and why in 1918 the Germans were so suspiciously lagging behind in pursuing the question of a "deepening" of the alliance or a military convention with Austria-Hungary.⁵⁸ The Germans grew

⁵⁵ Mawdsley, Evan: *The Russian Civil War*. Edinburgh: Birlinn. 2008, 58.

⁵⁶ The best survey still is Baumgart, Winfried: *Deutsche Ostpolitik 1918 – von Brest-Litowsk bis zum Ende des Ersten Weltkrieges*. Vienna: Oldenbourg, 1966; on the Austrian point of view Höbelt, Lothar: *Diplomatie zwischen Bündnissicherung und Friedenshoffnung. Die Außenpolitik Österreich-Ungarns 1914-1918*. In: Rumppler, Helmut (ed.): *Die Habsburgermonarchie 1848-1918*, Vol. XI: *Die Habsburgermonarchie und der Erste Weltkrieg*. Vienna: Akademieverlag. 2016, 1017-1094, here: 1075-1080.

⁵⁷ Kettle 1988 *op. cit.*, 126.

⁵⁸ On 8 July Cramon had presented a first draft; but nothing more was heard

increasingly dismissive about Austria-Hungary towards the end of the war, but this attitude was not coupled with any desire to bind that ramshackle structure "ever closer" to the Reich.

3 The Entente's irresolution

Even if the stories about the monarchy's "vassal status" as a result of the Sixtus Affair can be exposed as wildly exaggerated, Austria-Hungary's prestige certainly did suffer. During the winter of 1918 Austrian diplomat Count Mensdorff and Boer general Smuts as an emissary of the British Empire had still amiably talked about Austria-Hungary as a possible counterweight to German power, now that Russia was gone.⁵⁹ After the spring of 1918, though, the Entente powers seemed to have given up on Austria-Hungary. Thus, Gary Shanafelt has argued: "The impact of the Spa meeting came not from what the Monarchy really agreed but rather from what it appeared to agree."⁶⁰ Robert A. Kann who was the first to devote a scholarly monograph to the crisis half a century ago, went so far as to claim that it was "undisputed" that as a result of the Sixtus crisis the Entente passed the death sentence of Austria-Hungary.⁶¹

about it. Broucek, Peter: Die deutschen Bemühungen um eine Militärkonvention mit Österreich-Ungarn (1915-18). In: *Mitteilungen des Instituts für Österreichische Geschichtsforschung* 87. 1979, 440-470; here: 467. The only critical item on the agenda might have been the pledge that both partners would henceforth use their available man-power to the full. After all, the Germans had only trained roughly 50 % of their young men, the Austrians hardly 30 % (compared to almost 90 % in the case of the French). Burian had insisted that the 'Waffenbund' should be signed at the same time as the renewal of the Alliance but should not form an integral part of it (HHStA, PA I 505, Liasse XLVII/3-23, Telegram 469, Burian to Hohenlohe, 27 July 1918). The talks had already started in January when Col. Klepsch was detailed to Berlin for that purpose (Hohenlohe diary 3 Jan. 1918).

⁵⁹ Steglich 1984 *op. cit.*, cix-cxxviii, 295-317; Fest, Wilfried: *Peace or Partition. The Habsburg Monarchy and British Policy 1914-1918*. London: St. Martin's Press. 1978.126-177, 187-206.

⁶⁰ Shanafelt 1988 *op. cit.*, 196.

⁶¹ A. Kann, Robert: *Die Sixtusaffäre und die geheimen Friedensverhandlungen Österreich-Ungarns im Ersten Weltkrieg*. In *Österreich Archiv*. Vienna: Verlag für Geschichte und

This supposed death sentence merits some comment. True, the Entente powers gave up hope that Austria-Hungary would agree to a separate peace. But then, this hope had always rested on a delusion. Charles had never envisaged changing alliances (like Russia in 1762 or Austria in 1813). His idea of a separate peace was a contingency plan in case the Germans refused to accept a peace offer on the basis of the status quo. Czernin in his blunt manner put the matter quite squarely to the Germans in 1917: „Let's assume: Entente offers peace on the basis of status quo ante. You want to go on fighting. We say no. In that case the alliance is over.”⁶² To support that view he could even quote Bismarck who had always held that the Dual Alliance provided an insurance policy against unprovoked attack but did not constitute an association for mutual profit (“Erwerbsgenossenschaft”). If the Entente had wanted to create a split within the Central Powers, they needed to provide Charles with an offer of a peace “without annexations”. This they were unwilling or unable to do. Czernin was thus reduced to saying, Austria-Hungary would keep fighting for Strasbourg, just as the Germans would keep fighting for Trieste.⁶³ The only time he actually had recourse to his threat of a separate peace was when he got the impression that the German military were blocking the prospects of an agreement with the Russians at Brest-Litowsk.⁶⁴

Did the Entente, on the rebound, sign the death-sentence on Austria-Hungary? Of course, a lot of polemics were directed at the Great Four, those all powerful and all ignorant men (as Balfour termed

Politik. 1966. 54. The phrase runs through the standard literature like a red thread, see e.g. Rauchensteiner, Manfred: *Der Erste Weltkrieg und das Ende der Habsburger Monarchie 1914-1918*. Vienna: Böhlau. 2013, 941.

⁶² „Annahme: Entente stellt Friedensangebot auf dem status quo ante: Ihr sagt weiterkämpfen. Wir sagen Schluß. Dann Bündnisfall hinfällig.“ Quoted in: Fischer, Fritz: *Griff nach der Weltmacht. Die Kriegszielpolitik des kaiserlichen Deutschland*. Düsseldorf: Droste Verlag. 1961, 540.

⁶³ HHStA, PA I 963, Liasse 25/27d, fol. 397 (19 March 1918).

⁶⁴ Hohenlohe diary 29 Dec. 1917; APP III, pp. 182-4; Meckling 1970, 266-8, 288 f.; Paal, Vince - Seewann, Gerhard (eds.): *Augenzeuge dreier Epochen. Die Memoiren des ungarischen Außenministers Gusztav Gratz 1875-1945*. Munich: Oldenbourg. 2009, 115, 120, 127.

them)⁶⁵ for turning East-Central Europe into an unstable potpourri of successor states who easily fell prey to Hitler and Stalin later on. True enough: Austria-Hungary disintegrated in November 1918 because it had been defeated by the Entente. But the Entente had not yet made up its mind about what to do with Austria-Hungary. It had early on promised Serbs, Italians and Romanians pieces of Austro-Hungarian territory. It had followed in the footsteps of the Central Powers by advocating the creation of an independent Poland, after the Russian collapse. Logically enough, it had tried to encourage subversive acts by the smaller nationalities of Austria-Hungary, just as the Austrians had done when they unleashed Pilsudski against Russia – or as Germans and Turks had tried to incite the Muslims of the British Empire to join a jihad. *Nota bene*: None of these attempts had been strikingly successful.

The crucial step that was often interpreted as a "death warrant" on Austria-Hungary was the link established with the Czechoslovak Committee in exile in mid-1918. Or as US Secretary of State Robert Lansing put it ironically: If he were an Austrian he would "retaliate by recognizing the independence of Ireland, Egypt and India". In his opinion, Britain was again trying to have "one rule for herself and another for other nations."⁶⁶ But actually, Lansing got it all wrong (or he just was not privy to the internal reservations of the British). Lord Robert Cecil made it quite clear that he had not given Benes a guarantee of independence. He had just done the minimum necessary to persuade Benes to put the Czechoslovak legion in Siberia at the Entente's disposal.⁶⁷ The Czechoslovak Legion – formed of Austrian POWs willing to fight for the Entente – was supposed to be transported to the Western front via Vladivostok.⁶⁸ In May 1918, when fighting

⁶⁵ MacMillan, Margaret: *Peacemakers. The Paris Conference of 1919 and its Attempt to End War*. London: Murray 2001, 446.

⁶⁶ Kalvoda, Josef: *The Genesis of Czechoslovakia*. Boulder: University of Columbia Press. 1986. 393 (23 August 1918).

⁶⁷ Kettle 1988 *op. cit.*, 152.

⁶⁸ Miller Unterberger, Betty: *The US, Revolutionary Russia and the Rise of Czechoslovakia*. Chapel Hill: University of North Carolina Press. 1989; McGuire Mohr, Joan: *The Czech*

between the Czechoslovaks and the Bolsheviks started along the Transsiberian railway, the Germans had been crossing the Marne once again. That's why Clemenceau insisted they be sent to France as soon as possible. He may also have cherished the fanciful notion that Czechs fighting in Europe would trigger an uprising in Prague.⁶⁹

Britain realized that every Czech sent to Europe the round-about way via Vladivostok would mean one American less, because of the lack of shipping. In their view, it was a much better use of both Czech and Japanese forces, to send them against the Bolsheviks – and the Austrian and German POWs the Bolsheviks were supposed to be arming in Siberia and Turkestan.⁷⁰ If many of the assumptions behind that strategy rested on rather shaky foundations, the logistics behind it were probably sound enough. Benes as the Czech Committee's man on the spot in Paris rose to the occasion and managed to make the most of the situation. As Josef Kalvoda has pointed out: „The anti-Bolshevik uprising [in Siberia] helped Masaryk and Benes, who were opposed to it, to obtain recognition as the *de facto* belligerent provisional government of the then non-existent Czechoslovak state.”⁷¹ Benes played off the French against the British, pandered to both of their prejudices on occasion and extracted what was often taken as a recognition of Czechoslovak independence but was at most a recognition of the status of a belligerent, along the lines accorded to the Confederates during the American Civil War. The British formula read: Masaryk's Committee was recognized as the „supreme organ of the Czechoslovak movement in Allied countries”.⁷² Whatever it was, it had little to do with the politics of Austria-Hungary but a lot with the dilemmas created by the Russian Civil War.

President Woodrow Wilson's famous Fourteen Points included a call for the “freest opportunity of autonomous development” for

and Slovak Legion in Siberia, 1917-1922. Jefferson, N.C.: McFarland, 2012.

⁶⁹ Kettle 1988 *op. cit.*, 172.

⁷⁰ As Kettle demonstrates that danger was massively overrated. *Ibid.*, 14, 61, 79, 185, 269.

⁷¹ Kalvoda 1986 *op. cit.*, 338.

⁷² Fest 1978 *op. cit.*, 237.

the "subject nations of both the Austro-Hungarian and the Ottoman empires". Again, that was a far cry from independence. The only nation that was promised independence in unequivocal terms was Poland (and that came largely at the expense of Russia). Even towards the end of the war, Wilson did not change his tune. In October, he just informed Burian that the Slavs themselves "and not he should be the judges of what action will satisfy their aspirations".⁷³ That was a statement of fact, more than anything else. Once the Habsburg Empire surrendered – and the note asking for an armistice "without waiting for the results of other negotiations"⁷⁴ on 27 October was widely taken as a surrender – the constituent nations of Austria-Hungary, or their political elites, simply opted for independence. There were a number of diplomats on both the English and the French side who considered that development with very mixed feelings. After all, if nation states were formed on the territory of the Habsburg monarchy, it was more than likely that the 10 million Austrian Germans would sooner or later join Germany.⁷⁵

But there was no way any of the Western diplomats, or even the Great Four together, could put the genie back into its bottle. It is unlikely the Western powers could have saved the monarchy or provided it with a new lease of life, even if they had wanted to do so. Once the black-and-yellow colours had finally come down, there was no way the subject "nationalities" could be dissuaded from setting up shop on their own. Any suggestion that Czechs or Slovenes should please go back to a reformed version of the Habsburg monarchy for the sake of the European balance of powers would have been laughed out of court in Prague and elsewhere. The Great Four could fiddle with the small-print: They could give Marburg/Maribor to Styria or Yugoslavia; they

⁷³ Foreign Relations of the United States 1918, Supplement I, 368.

⁷⁴ FRUS 1918, Supplement I, 404 f.

⁷⁵ Marjanovic, Edith: *Die Habsburger Monarchie in Politik und öffentlicher Meinung Frankreichs 1914-1918*. Veröffentlichungen zur Zeitgeschichte 3. Vienna: Geyer Edition. 1984, 150-6; Shanafelt, 1988, 206, 210; Krizman, Bogdan: *Austro-Hungarian Diplomacy before the Collapse of the Empire*. Journal of Contemporary History 4/2.1969, 97-115; here: 109-112; Fest, 1978, 249 f., 257 f.

could give Eger/Cheb to Bavaria or Bohemia or Sopron/Ödenburg to Austria or Hungary, but they could not draw the clock back. Whether one approves of the dissolution of the Habsburg monarchy or not, the decision was no longer theirs. It was a decision they ratified, with varying degrees of enthusiasm, for lack of an alternative.

4 Domestic politics: “Two irons in the fire”

What was the impact of the Sixtus crisis on the domestic politics of Austria-Hungary? It certainly played a conspicuous part in the estrangement of Charles from his Austro-German subjects, among them the very people who had hitherto formed the bedrock of support for the monarchy. Following the revelations about the letters to Sixtus, all sorts of unfavourable rumours were circulated and believed. To quote just a few examples: Charles’ Adjutant General, Prince Zdenko Lobkowitz, complained that these days to attend the House of Lords felt like mixing with a coterie of Bolsheviks. Most of the aristocracy sided with Czernin – and against Charles, or rather loved to pin the blame on his wife, Empress Zita, and her relatives, the Bourbon-Parma family. Hohenlohe’s wife Henriette, herself an Archduchess, actually confided to her diary that she was in favour of Charles abdicating (or maybe withdrawing in favour of a regency headed by her uncle, Archduke Eugene).⁷⁶

The suspicions raised by the Sixtus crisis were exacerbated when Charles asked for an armistice in October, without waiting for German consent, thus technically committing a breach of the Dual Alliance. This provoked resentment among Austro-Germans of all stripes. Even the Social Democrats, who had always favoured a compromise peace, talked about treachery (learnedly quoting Schiller’s famous lines about the “gratitude of the Habsburgs”).⁷⁷ Of course, Social Democrats

⁷⁶ Hohenlohe Diary 13 & 21 April 1918; Griesser-Pecar, Tamara: *Die Mission Sixtus. Österreichs Friedensversuche im Ersten Weltkrieg*. Vienna: Amalthea. 1988.332.

⁷⁷ See Wilhelm Ellenbogen’s speech as reported in the *Arbeiter-Zeitung* of 31 Oct. 1918 and the paper’s leading articles on 29 & 30 Oct. 1918; the latter article admitted

needed no extra excuse to opt for a republic in 1918. Conservatives, on the other hand, were very much in two minds about their course of action. Without any strong lead on the part of the Emperor, they chose the path of least resistance.⁷⁸ Thus, while the misunderstandings between the monarch and the elites of the monarchy, were no root cause of the collapse of the monarchy, they go some way towards explaining why there was no viable legitimist movement in Austria during the inter-war years.

Usually, however, the reverse side of the coin has received more attention: Conventional wisdom has it that the Slav nations finally lost faith in the monarchy when they perceived that she was irretrievably wedded to following the "German course". This is not a very plausible argument. First of all, the "Slav" majority of Austria was a purely theoretical one. The Slavs of Austria included both Poles and Ukrainians who were at daggers drawn. In terms of war aims, the Poles were in favour of the Austro-Polish solution, the Ukrainians – and the Czechs – were bitterly opposed to it. Ukrainians, on the other hand, were quite willing to support a "German course", if only the Germans turned their back on the Poles, who had for a long time enjoyed the benefits of their position as the standard government party of the Austrian half of the monarchy. Relations between the South Slavs, Slovenes, Serbs, Croats and the Muslims of Bosnia, presented an even more complicated picture. While the monarchy had certainly lost support among the Croats because it was unable to offer them a convincing perspective, South Slav fears concentrated on the claims of Hungarian and Italians. Prussian influence played next to no part in their calculations.

All politics is local. German and Czech politicians had for a long time been playing the game of painting their opponents in treasonable, irredentist colours, as Russian or Prussian stooges. This was a strategy designed to appeal to the Court. But their real grievances were far removed from great power politics. Predictably, both sides referred to

Habsburg treachery was a crime born of "*unwiderstehlichem Zwang*".

⁷⁸ Alexander Lernet-Holenia wrote a novel in the inter-war-years, „*Die Standarte*“ that highlights the disappointment of a young officer who went to Schönbrunn to offer his services to the crown and witnessed only signs of dissolution.

the principle of self-determination where it suited them and blithely disregarded it whenever it threatened to undermine their political aims. Germans demanded autonomy for the Sudeten Germans but were unwilling to grant it to the Slovenes; Czechs wanted autonomy for the Slovaks but not for the Sudeten Germans. (Maybe only the German Social Democrats were more even-handed in their approach to national autonomy.) The Czechs had hoped that Trotzky would throw them a life-line during the negotiations at Brest-Litovsk; the Sudeten Germans had hoped that Berlin would support their aspirations.⁷⁹ Both were mistaken. Trotzky could not care less for the Czechs; German diplomats tried to persuade Austrian bureaucrats to listen to Slav grievances. The Dual alliance, they argued, could only function smoothly if the Slavs supported it, too.⁸⁰

In the mean-time, as long as the outcome of the war was uncertain, the Czechs followed a strategy of the “two irons in the fire”.⁸¹ The Czechs must appear to be on the side of the victorious powers, whoever that happened to be. They did not want to disown Masaryk and his Czechoslovak Committee in exile by joining the Austrian government nor did they want to burn their bridges by openly embracing irredentism.⁸² In the spring of 1918, there were all sorts

⁷⁹ Höbelt, Lothar: Zwischen Militärregime und nationaler Autonomie. In: Maly, Karel - Soukup, Ladislav (eds.): *Vývoj české ústavnosti v letech 1618-1918*. Prague: Nakladatelství Karolinum. 2006, 757-764.

⁸⁰ APP IV, pp. 226-8, Wedel to Bergen, 29 June 1918; Koralka, Jiri: Germany's Attitude towards the national disintegration of Cisleithania (April – Oct. 1918). In: *Journal of Contemporary History* 4/2 (1969), 85-95.

⁸¹ The phrase was coined by Antonín Svehla, the leader of the biggest Czech party, the Agrarians. Rees, H. Louis: *The Czechs during World War I: The Path to Independence*. East European Monographs, no. 339. Boulder, Colo.: East European Monographs. 1992. 54; Velek, Lubos: *Die tschechischen bürgerlichen Parteien im Weltkrieg 1914-1918*. In: Heeresgeschichtliches Museum (ed.): *Der Erste Weltkrieg und der Vielvölkerstaat*. Acta Austro-Polonica 4, Vienna. 2012, 165-178.

⁸² The diary of Young Czech politician and historian Zdeněk Tobolka provides a fascinating glimpse behind the scenes of Czech politics: Kucera, Martin (ed.): *Zdeněk Tobolka. Můj deník z první světové války*. Prague: Nakladatelství Karolinum, 2008; see also Mamatey, Victor: *The Union of Czech Political Parties in the Reichsrat 1916-18*. In: Kann, Robert A (ed.): *The Habsburg Empire in World War I*. Boulder: East European Quarterly. 1977. 3-28.

of contacts between the main-stream Czech parties and government ministers – in particular, Count Ernst Silva-Tarouca, the Minister of Agriculture.⁸³ These contacts were not helped by the German agitation ("furor teutonicus") unleashed by the Sixtus Affair,⁸⁴ but it was not until fortunes had decidedly shifted in July 1918 that a distinct movement to line up behind Kramar's fundamentalist opposition became discernible in Czech politics.⁸⁵ The survival or dissolution of the Habsburg monarchy was not so much a matter of sentiment, of loyalty versus treason, but a result of political constraints and options.

5 The impossibility of unilaterally opting out of the war

The gist of the German-Austrian relationship during World War I can easily be summed up: Whoever was responsible for the outbreak of war, Germany had saved the monarchy from its enemies in 1914-16; in 1917-18 it sacrificed the monarchy by its untimely provocation of the US, a few weeks before Russia started to withdraw from the war. For Austria-Hungary, the war had lost its rationale after all her initial enemies had dropped out of the war. The monarchy had no stake in fighting the Anglo-Saxon powers. The trouble was there was no way the Austrians could simply have ended the war, unilaterally. Withdrawal into neutrality was no viable option. Neutrality begged the question: "Neutral for whom?" The entente would not have rewarded a neutrality that left Germany's lines of communications with Turkey intact. The Germans would not have condoned a neutrality that threatened such vital interests.

⁸³ A running commentary on Czech politics can be found in the diaries of Baron Oskar Parish von Senftenberg, a descendant of the Scottish bankers' family who served as vice-president of the Conservative Party among Bohemian great landowners. His diaries are held in Statní Oblastní Archiv (SOA) Zámorsk, some of the letters of Silva-Tarouca to his wife in SOA Praha; see: Höbelt 2015 *op. cit.*, 224-226, 232, 246.

⁸⁴ For these discussions see SOA Zámorsk, Parish diaries, entries of 12 & 26 Jan., 5 & 15 Feb., 7, 23 & 25 April 1918.

⁸⁵ Urban, Otto: *Die tschechische Gesellschaft*. Vienna: Böhlau. 1994, 913.

In this case, at least, Czernin and Clemenceau saw eye to eye: The French Prime Minister argued that L'Autriche „*est livrée aux Allemands par la fatalité des choses*”.⁸⁶ Czernin emphasized that the monarchy could not simply exit from the war unilaterally. If she wanted to break with the “German course”, the only way to do so was by switching sides. Under 18th century conditions, Emperor Charles might have opted for such a U-turn. But such a “renversement des alliances” was difficult to execute under 20th-century circumstances. It is far from certain that he could have saved the Habsburg Empire by doing so. Instead, he might have unleashed a civil war, resulting in a break-up of the monarchy under circumstances far worse than the dissolution of November 1918. Of course, there is no definite answer to all these “iffy” questions. However, Czernin’s warning sounds plausible that one must not think aloud about such dangerous ideas. It was either do or don’t. Charles didn’t. One cannot really blame him for that.

⁸⁶ Marjanovic 1984 *op. cit.*, 134.; Czernin, Ottokar: *Im Weltkriege*. Berlin and Vienna: Ullstein & Co. 1919, 167.

Bibliography

- Baumgart, Winfried: *Deutsche Ostpolitik 1918 – von Brest-Litowsk bis zum Ende des Ersten Weltkrieges*. Vienna: Oldenbourg. 1966.
- Bihl, Wolf-Dieter: *Österreich-Ungarn und die Friedensschlüsse von Brest-Litowsk*. Vienna: Böhlau. 1970.
- Broucek, Peter: *Die deutschen Bemühungen um eine Militärkonvention mit Österreich-Ungarn (1915-18)*. In: *Mitteilungen des Instituts für Österreichische Geschichtsforschung* 87 (1979), 440-470.
- Czernin, Ottokar: *Im Weltkriege*. Berlin: Ullstein. 1919.
- Fest, Wilfried: *Peace or Partition. The Habsburg Monarchy and British Policy 1914-1918*. London: St Martin's Press. 1978.
- Fischer, Fritz: *Griff nach der Weltmacht. Die Kriegszielpolitik des kaiserlichen Deutschland*. Düsseldorf: Droste Verlag 1961.
- Gooch, John: *The Italian Army in the First World War*. Cambridge: Cambridge University Press. 2014.
- Gratz, Gusztav & Schüller, Richard: *Der wirtschaftliche Zusammenbruch Österreich-Ungarns*. Vienna: Hölder-Pichler-Tempsky. 1930.
- Griesser-Pecar, Tamara: *Die Mission Sixtus. Österreichs Friedensversuche im Ersten Weltkrieg*. Vienna: Amalthea. 1988.
- Hannig, Alma: *Gottfried Hohenlohe*. In: Alma Hannig & Martina Winkelhofer (Eds.), *Die Familie Hohenlohe. Eine europäische Dynastie im 19. und 20. Jahrhundert*. Cologne: Böhlau. 2013, 228-268.
- Höbelt, Lothar: *"Stehen oder Fallen?" Österreichische Politik im Ersten Weltkrieg*. Vienna: Böhlau. 2015.
- Höbelt, Lothar: *Zwischen Militärregime und nationaler Autonomie*. In: Maly, Karel & Soukup, Ladislav (Eds.), *Vyvoj ceske ustavnosti v letech 1618-1918*. Prague: Nakladatelství Karolinum. 2006, 757-764.
- Höbelt, Lothar: *The Austro-Polish Solution: Mitteleuropa's Siamese Twin*. In: Jean-Paul Bled, Jean-Paul & Deschodt, Jean-Pierre (Eds.), *Le crise de juillet 1914 et l'Europe*. Paris: Editions SPM. 2016, 125-136.
- Höbelt, Lothar: *Diplomatie zwischen Bündnissicherung und Friedenshoffnung. Die Außenpolitik Österreich-Ungarns 1914-1918*. In: Rumpler, Helmut (Ed.): *Die Habsburgermonarchie 1848-1918, Vol. XI: Die Habsburgermonarchie und der Erste Weltkrieg*. Vienna: Akademieverlag. 2016, 1017-1094.

- Kalvoda, Josef: *The Genesis of Czechoslovakia*. Boulder: University of Columbia Press. 1986.
- Kann, Robert A.: *Die Sixtusaffäre und die geheimen Friedensverhandlungen Österreich-Ungarns im Ersten Weltkrieg*. Wien: Verlag für Geschichte und Politik. 1966.
- Kettle, Michael: *The Road to Intervention: March to November 1918*. London: Routledge. 1988.
- Kindler, Klaus: *Die Cholmer Frage 1905-1918*. Frankfurt/M.: Lang 1990.
- Komjathy, Miklós (Ed.): *Protokolle des Gemeinsamen Ministerrates der Österreichisch-Ungarischen Monarchie (1914-1918)*. Budapest: Akadémiai Kiado. 1966.
- Koralka, Jiri: Germany's Attitude towards the national disintegration of Cisleithania (April – Oct. 1918). In: *Journal of Contemporary History* 4/2 (1969), 85-95.
- Kucera, Martin: (Ed.), Zdenek Tobolka. *Muj denik z proni svetove valky*. Prague: Nakladelstvi Karolinum 2008.
- Landwehr von Pragenau, Ottokar: *Hunger. Die Erschöpfungsjahre der Mittelmächte 1917/18*. Zurich: Amalthea. 1931.
- MacMillan, Margaret: *Peacemakers. The Paris Conference of 1919 and its Attempt to End War*. London: Murray. 2001.
- Mamatey, Victor: The Union of Czech Political Parties in the Reichsrat 1916-18. In: Robert A. Kann (Ed.), *The Habsburg Empire in World War I*. Boulder: University of Columbia Press. 1977, 3-28.
- Marjanovic, Edith: *Die Habsburger Monarchie in Politik und öffentlicher Meinung Frankreichs 1914-1918*. Veröffentlichungen zur Zeitgeschichte 3, Wien: Geyer Edition. 1984.
- Marozzo Della Rocca, Roberto: Achille Ratti in Polen 1918-1921. In: Jörg Zedler (Ed.), *Der Heilige Stuhl in den internationalen Beziehungen 1870-1939*. München: Herbert Utz Verlag. 2010, 249-284.
- Mawdsley, Evan: *The Russian Civil War*. Edinburgh: Birlinn. 2008.
- Meckling, Ingeborg: *Die Aussenpolitik des Grafen Czernin*. Wien: Verlag für Geschichte und Politik. 1969.
- Miller Unterberger, Betty: *The US, Revolutionary Russia and the Rise of Czechoslovakia*. Chapel Hill: University of North Carolina Press. 1989.
- Müller, Achim: *Zwischen Annäherung und Abgrenzung. Österreich-Ungarn und die Diskussion um Mitteleuropa im Ersten Weltkrieg*. Marburg: Tectum. 2001.
- Paal, Vince & Seewann, Gerhard (Eds.): *Augenzeuge dreier Epochen. Die Memoiren des ungarischen Außenministers Gusztav Gratz 1875-1945*. München: Oldenbourg 2009.
- Rees, H. Louis: *The Czechs during World War I*. New York: University of Columbia Press. 1992.

Scherer, Andre & Grunewald, Jacques (Eds.), *L'Allemagne et les problemes de la paix pendant la Premiere Guerre Mondiale* (=APP), Vol. 4. Paris: Presses Universitaires de France. 1978.

Shanafelt, Gary: *The Secret Enemy. Austria-Hungary and the German Alliance 1914-1918*. Boulder: University of Columbia Press. 1988.

Soutou, Georges-Henri: *L'or et le sang. Les buts de guerre economiques de la Premiere Guerre mondiale*. Paris: Fayard. 1999.

Wolfgang Steglich (Ed.), *Die Friedensversuche der kriegführenden Mächte im Sommer und Herbst 1917. Quellenkritische Untersuchungen, Akten und Vernehmungsprotokolle*. Stuttgart: Steiner. 1984.

Stevenson, David: *French War Aims against Germany, 1914-1919*. Oxford: Oxford University Press. 1982.

Urban, Otto: *Die tschechische Gesellschaft*. Wien: Böhlau. 1994.

Velek, Lubos: Die tschechischen bürgerlichen Parteien im Weltkrieg 1914-1918. In: Heeresgeschichtliches Museum (ed.): *Der Erste Weltkrieg und der Vielvölkerstaat. Acta Austro-Polonica 4*, Wien 2012, 165-178.

*Tibor Glant**

THE INQUIRY AND THE PARIS PEACE CONFERENCE: AMERICAN PREPARATIONS FOR PEACE AND THE FUTURE OF HUNGARY, 1917-1920

1 Introduction

At the outbreak of the First World War no one thought that four years later the Central Powers would ask for a ceasefire upon the peace plans of the US President announced publicly, and that Wilson would emerge as a key figure in international politics by 1919. America's entry into the war and later the 14 Points that reached mythical significance owing to US government propaganda gave new hope for the peoples of Europe suffering from the war. The key element of Wilson's rhetoric was the doctrine of the "war to end all wars", the "national self-determination", and a "just" and "scientific peace". This "science for peace" was designed to ensure the fairness of the "new world order" promised by Wilson. Wilson instructed a committee comprised of mostly American east coast experts, the Inquiry, to map out this "scientific peace". The members of the committee were not only active in the preparation for peace but took part in the peace-making process in Paris as well. They served in the Territorial, Economic, and Political Intelligence Unit of the American Commission to Negotiate the Peace (hereafter ACNP), as well as in territorial committees and as members of the various diplomatic and relief American missions stationed to the Danube Basin.

The Inquiry was a typical Wilsonian institution. While French, British, Italian, and Japanese (and later Hungarian) preparations for peace primarily were carried out by foreign affairs experts, the American work was supervised by the President's unofficial chief

* Associate professor – University of Debrecen, North American Department, tglant@unideb.hu.

advisor, Colonel Edward M. House (1858-1938). The committee was chaired by House's brother-in-law and the cashier was the fellow lawyer of House's son-in-law. The costs of the Inquiry were provided by the President (officially in an amount of around a quarter of a million dollars) from the security and national defense fund granted for him by the Congress due to the war. The committee was formally under the control of the State Department but Secretary of State Robert Lansing (1864-1928) had no say in the work. Hence, American peace-preparation was carried out outside the constitutional framework of "checks and balances", and it was accountable and had reporting commitments solely to the President. Concerning its legal status, the Inquiry was an independent federal agency. The safety net of the State Department ensured access to governmental data, while House's appointments guaranteed that the Inquiry could stay out of administrative infighting, and Congress had no control over peace preparations. The administrative conditions and financial resources for the independent operation of the Inquiry were thus ensured from the very outset.¹ In our study we examine how the researchers of the Inquiry took this opportunity – in the case of the Austro-Hungarian Monarchy and Hungary –, and to what extent they could realize their wartime plans in Paris. But, first, let us look at the history of the establishment of the committee, its operation and performance.

2 Peace Initiatives and Preparations

Before the United States of America joined the war on April 6, 1917, President Wilson had offered to mediate in the conflict in August 1914 and also in December 1916, but in both instances the warring parties rejected the American offer. The entrance of the United States into the

¹ This study was produced within the framework of the Trianon 100 Momentum research group. Its text is an edited version of the introduction to our documentary publication on the subject. (See note 27 for details.) Lawrence E. Gelfand: *The Inquiry: American Preparations for Peace, 1917-1919*. New Haven and London: Yale University Press, 1963. This is the only monograph published on the subject.

war on the side of the Allies solely as an "Associated Power" made it clear that Washington did not share the war aims of Paris and London. French and British peace-preparatory work commenced in early to mid-1917, and the State Department became aware of this. However, Wilson tasked not the State Department but Colonel House with the work. In a September 2, 1917 letter to his "alter-ego" he wrote,

"I am beginning to think that we ought to go systematically to work to ascertain as fully and precisely as possible just what the several parties to the war on our side will be inclined to insist upon as part of the final peace agreements, in order that we may formulate our either for or against them ... [I]n brief, prepare our case with a full knowledge of the position of all the litigants. What would you think of quietly gathering about you a group of men to assist you to do this? I could, of course, pay all the bills out of the money now at my command. Under your guidance these assistants could collate all the definite material available and you would make up the memorandum by which we should be guided."

Two days later House stated in his reply that he was pleased to undertake the task and that he too had hoped to raise this matter with the President at their next personal meeting.²

The tasks and operating framework of the future committee were clearly designated by the Wilson-House exchange of letters. The President ensured the financial resources from the war defense fund voted year by year thereby giving his foremost and the most confidential advisor a free hand. Thus, House could freely select his colleagues and the areas for research, and himself acted as a filter between the proposals of the committee and the President. Wilson did not want to consult with the members of the committee, but (being also a scholar) he guaranteed for them the conditions of free research. All this was to be kept from the public. This was the conception of

² *Ibid.*, 24–28. Gelfand cites Wilson's letter (pp. 26–27) as well as House's reply (p. 28).

the first American “*think tank*” on foreign affairs, which later (after the war) continued to operate as the Council on Foreign Relations (CFR) and still publishes one of the most important and powerful journals, *Foreign Affairs*.

3 Organization and Operation of the Inquiry

Although Wilson was thinking of a smaller group of experts at the start, House finally created a research network of more than 100 members. He appointed Sidney E. Mezes (1863–1931), the President of the College of the City of New York, as head of the Inquiry. He was House’s brother-in-law, but this did not bother Wilson: “I do not think that anyone could reasonably criticize your associating President Mezes with you ... you certainly can do the work best with the assistance of men you know and trust.” Trust was of paramount importance, as President Wilson wanted to keep the start of preparation for a “scientific peace” a secret.³

Walter Lippmann (1889–1974) became the secretary of the committee on the proposal of Wilson; he was replaced by Isaiah Bowman (1878–1950) in the summer of 1918. Lippmann was a young (then liberal) journalist of note; Bowman was the director of the American Geographical Society (hereafter AGS) seated in New York. In Paris Bowman headed the Intelligence Section created from the Inquiry. He was a personal acquaintance of Pál Teleki and Jenő Cholnoky.⁴

The Inquiry’s cashier (and one of the international law experts) was David Hunter Miller (1875–1961), a lawyer from New York. Miller was

³ *Ibid.*, 23. Gelfand cites Wilson’s letter to House on Mezes, dated September 24, 1917: p. 38, note 15. See also Jonathan M. Nielson: *American Historians in War and Peace: Patriotism, Diplomacy and the Paris Peace Conference, 1918–1919*. Bethesda – Dublin – Palo Alto: Academica Press, 2012, 133–134.

⁴ Ronald Steele: *Walter Lippmann and the American Century*. Rev. ed. New York and London: Routledge, 2017; Neil Smith: *American Empire: Roosevelt’s Geographer and the Prelude to Globalization*. Berkeley – Los Angeles – London: University of California Press, 2003. On the relationship of Bowman, Teleki and Cholnoky see dr. Cholnoky Jenő: *Utazásom Amerikában Teleki Pál gróffal*. Budapest: Vajda-Wichmann, 1942. Balázs Ablonczy: *Teleki Pál*. Budapest: Osiris, 2005, 84–87.

the fellow lawyer of Gordon Auchincloss (1886–1943), who was House’s son-in-law. After the war Miller emerged as a recognized international law expert and authority and prepared the first documentary publication of the international treaties signed by the United States (published between 1931 and 1948, in eight volumes). He worked at the Historical Division of the State Department between 1929 and 1944. His most important work for our purposes is the 22-volume private publication of his Paris diary, including documents and maps (1924). As a member of the ACNP in Paris he actively participated in the drafting of the covenant of the League of Nations.⁵

The Inquiry’s research director was James T. Shotwell (1874–1965), a Canadian-born historian of Columbia University. Shotwell spoke (and taught in) French and German, and he studied in Europe during his doctoral training. The name of the committee comes from him as well: he argued in favor of the vague choice of word, saying it provided a “blind to the general public, but would serve to identify it among the initiated”. Shotwell was the driving force behind the Inquiry and was invited to travel to Paris as a member of the ACNP. He officially served as a librarian there, and he also took part in the creation of the International Labour Organization (ILO).⁶

According to Gelfand, 11 of the 126 officially appointed members of the Inquiry dealt with the Austro-Hungarian Monarchy and the Balkans, 15 with Russia, 14 with the history of diplomacy, and 8 with questions of international law. Besides the 17 cartographers employed 4 experts were in charge of Africa, 3 of the Far East, 5 of Western Europe, and 12 of Latin America. 10 staff members were charged with general research tasks, 6 people dealt with economic matters, and the committee had an Italian expert as well. Two-thirds of the scholars graduated from four universities (Chicago, Columbia, Harvard, and

⁵ Gelfand 1963 *op. cit.*, 51–52. Miller’s papers are held in the Library of Congress in Washington and in the archives of the University of Washington in Seattle. David Hunter Miller: *My Diary at the Conference of Paris, with Documents*. Vols. 1–22. New York: privately published, 1924.

⁶ James T. Shotwell: *At the Paris Peace Conference*. New York: Macmillan, 1937, 6–8.; id.: *The Autobiography of James T. Shotwell*. New York and Indianapolis: Bobbs-Merrill, 1961. See also Nielson 2012 *op. cit.*, 123–124. Shotwell’s papers are held at Columbia.

Yale) and half of the staff was recruited from five institutions (Columbia, Harvard, Princeton, Yale, and the AGS). One notable exception is the American-born Robert J. Kerner (1887–1956), who was of Czech origin, then a professor at the University of Missouri, who had studied with Archibald Cary Coolidge (1866–1928) at Harvard and later became a professor at Berkeley. Thus, the Inquiry technically was an East Coast “think tank” in which some members had already known each other before their commission and could work well together. Their expertise is rightly criticized by Gelfand, but it is beyond dispute that they (with a few exceptions) extensively and carefully studied their assigned research subjects during the available time of less than a year.⁷

Besides the recruitment of researchers, specific tasks and research areas were also determined. According to a memorandum from the summer of 1918, research was conducted on the basis of the following territorial divisions: (1) the Western Front; (2) Austria-Hungary; (3) the Balkans; (4) Russia; (5) Turkey; (6) the Far East; (7) the Pacific Islands; (8) Africa; and (9) Latin-America. The Polish issue, which was also important in domestic American politics, was investigated by the Eastern European/Russian study group headed by Coolidge.⁸ According to Mezes, writing in 1921,

“But the bulk of the work of The Inquiry dealt with Mittel Europa, indeed, with the distracted areas of Central Europe and the Near East on either side of the much-heralded Hamburg-Bagdad Railway, stretching from the North Sea and the Baltic to the Persian Gulf and the Indian Ocean, and the data gathered proved to be indispensable when the Conference met. And as the spring and summer of 1918 advanced, the exact nature of the data required grew clear. It became evident, namely, that many kinds of information bearing on the drawing of boundary-lines would

⁷ Gelfand 1963 *op. cit.*, 45–49; Nielson 2012 *op. cit.*, 121–123.

⁸ For materials on the organization and operation of the Inquiry see *Papers relation to the Foreign Relations of the United States: The Paris Peace Conference*, vols. 1–13. Washington, D. C.: Government Printing Office, 1942–1947, 1: 9–220. Hereafter: *FRUS PPC*. An undated memorandum on the structure of the Inquiry: *FRUS PPC* 1: 104.

be needed, and that no information that did not bear on such settlements excepting general economic information that would be needed in drafting the economic clauses of the treaty, would be of any value. In August, therefore, the staff of The Inquiry was asked to confine its consideration to such data, and soon thereafter the work clarified and definite objectives were established. Only the regions along or adjacent to probable boundary-lines were now studied. Others could be dismissed from consideration.”⁹

This citation shows that the Inquiry’s researchers first got a free hand in their study, but after the turn in American diplomacy in the summer of 1918 (when Wilson began to support the dismemberment of the Monarchy¹⁰) they had to concentrate only on territories “along or adjacent to probable boundary-lines”.

The cartographic program of the Inquiry is one of the forgotten success stories of American geography. The AGS had international connections, and its journal, founded in 1916, the *Geographical Review*, published the writings of internationally renowned geographers from all over the world. The map program was headed by Bowman’s mentor, Mark Jefferson (1863–1949, a professor at Michigan State Normal College), who was a member of the Latin-American study group as well. The committee collected and prepared almost 1,500 maps in total. These maps were transported to Paris but were separated from the documents they belonged to, and they are still kept in a separate fond in Archives II (National Archives and Records Administration II, College Park, MD). Besides the printed maps of English, Austrian, French and German editions, the AGS made its own templates for

⁹ Sidney Edward Mezes: “Preparations for Peace”. In: Edward Mandell House and Charles Seymour (eds.): *What Really Happened at Paris. The Story of the Peace Conference, 1918-1919 by American Delegates*. New York: Charles Scribner’s Sons, 1921, 1–14. The citation is from page 5.

¹⁰ For details see Tibor Glant: *Through the Prism of the Habsburg Monarchy: Hungary in American Diplomacy and Public Opinion during World War I*. Highland Lakes, NJ: Atlantic Research and Publications, 1998. (War and Society in East Central Europe Vol. XXXVI.; Atlantic Studies on Society in Change No. 95), chapter 11.

the Inquiry. These poster-sized maps were called “base maps”. They were printed in black and white and used for displaying boundary proposals. These maps were utilized in military education later, and the coloured versions of the maps depicting Central Europe were published in the *Geographical Review* after the war.¹¹

The headquarters of the Inquiry were in New York City until the end. First, they were placed in the New York Public Library. The program could be kept secret at the request of the President only for a few weeks: at the end of September 1917, the press broke the news of start of American peace preparations. At the end of September, the committee moved to the headquarters of the AGS in secret, and the archives were kept there as well. The work of the Inquiry was decentralized, though: the Austro-Hungarian division operated at Yale (New Haven, CT), the Eastern European section worked at Harvard (Cambridge, MA).¹²

The Inquiry produced and collected about 2,000 reports by the end of the war. However, only a quarter of these were written by committee members, and only about 1,000 of them were catalogued and numbered. In addition to the reports, they managed a card catalogue on the available academic literature. Members of the committee submitted the reports in four copies: one copy remained with the author, one copy went to the head of the study group, and two copies were catalogued by author and topic and were placed in the archives. Shotwell and the Research Committee were responsible for the assessment of the reports, but such written assessments exist for only a handful of reports. In August 1918 they shifted to preparing summaries on the proposed borders and compiled thematic card catalogues in preparation for the upcoming Peace Conference.¹³

The library program of the Inquiry was organized by Andrew Keogh, the chief librarian of Yale. His right-hand woman was Florence Wilson, a librarian of Columbia. About a total of 10 thousand dollars

¹¹ Bowman sent a set of these maps to Seymour in 1926. Charles Seymour Papers (Ms. 441), box 63, folder 117: “Miscellaneous Maps”, Sterling Memorial Library, Yale. Hereafter: SML, Yale.

¹² Smith 2003 *op. cit.*, 120–121.; Gelfand 1963 *op. cit.*, 39–41, 54–60.

¹³ Gelfand 1963 *op. cit.*, 79–113.

were paid for the library program. Yale contributed Keogh's salary; the Inquiry paid (Mary) Wilson's. Yale recalled Keogh in June 1918. Afterwards, the library program operated without an expert leader. In August Vladimir Simkhovitch, an economic historian of Columbia, was charged with the task, yet he continued to work for the study group headed by Coolidge as well. A large part of the committee library was taken to Paris. There, the collection was expanded with books published in English in Europe during the war. The tons of materials "packed in heavy oak cases" left for Paris on the same vessel as President Wilson himself. As has been mentioned, in Paris Shotwell served as librarian for the ACNP.¹⁴

The Inquiry spent a total of 240,000 dollars of government funds between September 1917 and January 1919.¹⁵ This was complemented by support from certain universities (e.g. the salary of researchers and staff) and additional funds for library services. My own estimate is that the total cost must have been around 500,000 dollars. One 1918-date dollar is worth about 20 dollars at today's exchange rate, so the present-day value of US investment in the work of the Inquiry amounts to 10 million dollars. Over the same period of time Wilson's "ministry of propaganda", the Committee on Public Information (CPI) spent 6.85 million dollars (1919 data).

One of the most popular myths about the Inquiry claims that the commission actively took part in the formation of the American war policy. Mezes clearly refuted this in 1921, "Policies would, of course, be determined, and the culminating negotiations conducted by our plenipotentiaries. The Inquiry staff would thus be limited to the role of gathering and evaluation facts, and of digesting them for prompt and handy use. Work of such detail could not be expected of statesmen and

¹⁴ O'Connor, Thomas F.: "Library Service to the American Commission to Negotiate Peace and to the Preparatory Inquiry, 1917-1919". In: *Library and Culture* Vol. 24, No. 2 (Spring 1989), 144-157. Shotwell 1937 *op. cit.*, 15-17. O'Connor points out that women were not entrusted with leadership roles in the Inquiry because they were not considered capable of performing "men's work".

¹⁵ Gelfand 1963 *op. cit.*, 100-101.

diplomats, nor would they have been competent for it.”¹⁶ Ironically, these roles were reversed at the Paris Peace Conference in 1919: Coolidge in Vienna and American experts on the various territorial committees (Seymour, Day, and Allen W. Dulles in connection with Hungary) did not act as mere experts or advisors; they shaped Allied policy and were often involved in the decision-making process.

4 The Austro-Hungarian and Balkans Divisions

Peace preparations concerning the future of Hungary were carried out by two study groups of the Inquiry, and there were overlaps in their personnel. The Austro-Hungarian division was in charge of the issue of the Monarchy and Italy. It had altogether nine members, plus an administrative staff of four people. The Balkans division had eight members and was headed by Clive Day, who was a member of the Austro-Hungarian division as well. A total of seven people from the officially appointed members of the Austro-Hungarian and the Balkans divisions wrote reports of Hungarian relevance: Seymour, Day and Kerner from the former group, and, from the latter, Day, Max Handman, Paul Monroe and William S. Monroe (who were not related).¹⁷ Leon Dominian (1880–1935), a key member of both the Balkans and the Latin-American divisions, set down the fundamental principles of research in his work *The Frontiers of Language and Nationality in Europe* (1917). The joint work of Seymour and Donald Paige Frary on the development of international suffrage and election systems (1918), was likewise an important resource.

The Austro-Hungarian division of the Inquiry operated at Yale was headed by Charles Seymour (1885–1963), a young historian (aged 32) of

¹⁶ Mezes 1921 *op. cit.*, 6.

¹⁷ Gelfand writes (p. 52) that he only took into account employees who were officially on the payroll in and after May 1918 and submitted at least two reports. The reason for the discrepancies between his list and the one presented here is to be found in the differences between the payrolls kept by Miller (in New York) and the Inquiry’s personnel database.

the famous university of the East Coast. He obtained BA in history and election law in Cambridge (1904), England, and then from Yale (1908). During the years of his postgraduate studies, he attended German and French universities as well, and earned his PhD from Yale in 1911. Later he served first as university Provost (1927-37) then as President of Yale (1937-50). After his retirement, he was the curator of the House papers, which was donated to Yale in the meanwhile. Seymour participated in the drafting of the new Hungarian borders in Paris and was a founding member of CFR in 1921. In his monographs published after the war he examined the role of the United States in the First World War. Later, he edited House's diary for publication and a selection of his letters from Paris was also published after his death. He was not familiar with the Austro-Hungarian Monarchy, he had to work his way into the subject from scratch.¹⁸

Clive Day (1871-1951), who headed the Balkans division and worked part-time for the Austro-Hungarian section, also obtained his PhD from Yale, and he was teaching economic history there when he was asked for cooperation. He published a book on the history of world trade in 1907. In this work of 640 pages, he made mention of Austria and the Monarchy only on seven pages, so he was hardly an expert either of the area of study entrusted to him. Just like Seymour, he was a member of the American peace delegation and took part in the drawing of the borders of Hungary and the successor states.¹⁹

The most informed member of the section was, of course, Robert J. Kerner (1887-1956). He was born in Chicago as a child of Czech immigrants and he obtained a BA and MA in history there. Between 1911 and 1914 he studied with Archibald Cary Coolidge at Harvard, and during his doctoral years he worked in Vienna, Berlin, Moscow, and Paris as well. He taught at the University of Missouri in 1917 from

¹⁸ Harold B. Whiteman, Jr. (ed.): *Letters from the Paris Peace Conference by Charles Seymour*. New Haven and London: Yale University Press, 1965, vii-xx.; Gelfand 1963 *op. cit.*, 57; Nielson 2012 *op. cit.*, 126-127. See also the biographical section in the archival guide prepared in 1974 (and revised in 1998) for Seymour's papers held at Yale (pp. 4-8).

¹⁹ Gelfand 1963 *op. cit.*, 57; Nielson 2012 *op. cit.*, 126.; see also the biographical section in the archival guide prepared in 1986 for Day's papers held at Yale (p. 4).

where he was invited to the Inquiry by Coolidge. Kerner also took part in the work of the Peace Conference: he was sent to Prague on an intelligence and diplomatic mission. He moved to Berkeley in 1928 where he established the Slavic program. His first work (in 1916) was a Slavic historical bibliography in English followed by a presentation of Yugoslav claims in 1918. Later he wrote about Czech and Russian history, and about the Balkans and the Far East. His bias was known by his colleagues and superiors; therefore, his reports were used with particular care. He spoke French and German besides the “Balkan’s languages”, but we have found no reference to him being able to speak or read Hungarian.²⁰

Two members of the division dealt with Italian issues. The official expert on Italy was William E. Lunt (1882–1956), who taught English and medieval history at Cornell. He published no books before 1918, but he could speak some Italian. Austin P. Evans (1884–1962) was a professor at Columbia. He could not speak Italian, and he was responsible for the research on the issues of the Austrian-Italian borders.²¹ According to the Inquiry’s personnel database additional members of the Austro-Hungarian study group in October 1918 included Richard B. Barrett, Florence A. Hague and Charles Sweeney, who also aided Day as research assistants, and W. G. Hoye, who provided similar services for Seymour. Administrative work was carried out by Martha Boucher, Thomas Burk, Bertha F. Norton, and Fannie Irvin.²²

The Balkans division also operated at Yale and was headed by Clive Day. It shared the four-person administrative staff with the Austro-Hungarian division. The group’s expert on Romania was the

²⁰ Gelfand 1963 *op. cit.*, 57, 200.; Nielson 2012 *op. cit.*, 130. For Kerner’s university (Berkeley) obituary in April 1958 (with additional biographical information) see: <http://texts.cdlib.org/view?docId=hb6r29p0fn&doc.view=frames&chunk.id=div00016&toc.depth=1&toc.id#X> (Accessed: November 18, 2020).

²¹ Gelfand 1963 *op. cit.*, 57–58.; Nielson 2012 *op. cit.*, 128–129. For Evans’ letter on his language competence see Gelfand 1963 *op. cit.*, 58, note 49.

²² The personnel database was administered in two card catalogues. For both see Record Group 256: Documents of the American Commission to Negotiate the Peace, Item 22, National Archives and Records Administration II, College Park, MD, USA. Hereafter RG 256 ACNP, Archives II. Miller kept his own files.

Romanian-born Max Handman (1885–1939) who obtained his PhD from the University of Chicago, studied in France and Germany, and was a sociologist at the University of Texas when he was recruited.²³ William S. Monroe (1863–1939) dealt with the international relations of the Balkans and the freedom of navigation on the Danube. He spoke English, German and French, got his BA from Stanford in 1894, and wrote several books about the Czechs, Bulgarians, and Turks before 1918. Like Kerner and Handman, Paul Monroe (1869–1947) graduated from Chicago. He was an education expert and wrote a study on the educational system of the Monarchy for the Inquiry.²⁴

An additional memorandum about Romania and Hungary was supplied by the Eastern European division headed first by Coolidge and then Robert Howard Lord. This was dated and submitted on November 30, 1918 by William Howell Reed Jr. (1876–1949) who had also graduated from Harvard. The main responsibility of Reed was to research the Dobruja and Bessarabia; so, he started to work under the direction of Coolidge in February 1918.

An important member of the Balkans division was the aforementioned Leon Dominian (1880–1935), who was of Armenian-Turkish origin. He studied at Robert College of Constantinople and in Belgium. He had lived in the United States since 1903 and acquired citizenship ten years later. He joined to AGS in 1912, and his work of “applied geography” on the frontiers of language and nationality in Europe was published in May 1917.²⁵ Scientific planning of the future

²³ Gelfand 1963 *op. cit.*, 59; On Handman’s life see the obituary on the homepage of his university: <https://www.lib.umich.edu/faculty-history/faculty/max-sylvius-handman/memorial> (Accessed: December 19, 2018). Coolidge wanted to employ Handman as early as December 1917, but this was prevented by Shotwell on the grounds that the expert of Romanian descent had exhibited too much curiosity and caused some diplomatic complications as well. Still, he was eventually employed on August 26, 1918. RG 256 ACNP, Inquiry General Correspondence, box 6, folder: “Handman”, Archives II.

²⁴ On the two Monroes, see Gelfand 1963 *op. cit.*, 59.

²⁵ Gelfand 1963 *op. cit.*, 60. For Dominian’s obituary see W. L. G. Joerg: “Memoir of Leon Dominian”. In: *Annals of the Association of American Geographers* Vol. 26, No. 4 (1936), 197–198. Details of the book: *The Frontiers of Language and Nationality in Europe*. Published for the American Geographical Society of New York by Henry Holt and Company, 1917.

political borders was of particular importance for the researchers working for President Wilson who, in turn, propagated “national self-determination”. The conceptual framework of nationality sketched out by Dominian served as a key guideline for the Inquiry. This is important because it appears astonishing today how the categories of race and ethnicity were confused and applied in the early twentieth century: President Wilson, for example, regularly said that the “Anglo-Saxon race” was much more capable of democracy than the “Teutonic” or the “Slavic” one. However, Dominian identified only three „primary European races”: the Nordic, the Mediterranean and the Alpine. In this narrative the Jews were an Oriental race, and they were not treated as European.²⁶

5 The Inquiry’s Reports on Hungary

Inquiry research concerning Hungary and the Monarchy falls into two clearly different periods separated by July-August 1918. As has been explained above, the reason for this was Wilson’s change of policy from negotiations to the partition of the Habsburg Monarchy. During the first period the committee tried to gather all available information and began to develop plans for federalizing the Monarchy. During the second period the committee focused only on the examination of future borders and related economic issues. This work was carried out with a view to the impending Peace Conference, and they created easy-to-use card catalogues instead of long reports. The Inquiry’s last summary report, which outlined the American standpoint for the peace conference, was completed during the armistice negotiations but prior to the termination of the war. The Austro-Hungarian and Balkans divisions of the Inquiry thus followed the policy established by the President in both periods: first they developed plans for the federalization of the Habsburg Empire, then they conducted an ethnic

²⁶ For details see Michael H. Hunt: *Ideology and U.S. Foreign Policy*. New Haven and London: Yale University Press, 1988, 46–91. Leonard Dinnerstein: *Antisemitism in America*. Oxford and New York, Oxford University Press, 1994, 35–77.

and political survey concerning the disputed territories (mainly by statistical methods), and finally they submitted a final settlement plan. We published these documents in Hungarian as well in 2020.²⁷

The vast majority of the reports dealing with the Monarchy, and thus directly or indirectly with Hungary, were submitted in the first period (before July 1918). The material accumulated in this way does not reflect targeted research. In the archives of the Inquiry, we can find reports on the forestry of the Monarchy but not on her light industries; a memorandum was prepared outlining the Balkans policy of Vienna but not one was submitted on Austrian-German or Austrian-Russian relations. These reports are of mixed quality at best, and this is reflected in the surviving evaluations added to some of them. The trio of Seymour, Day, and Kerner penned the reports in the first period; others appeared as authors from the summer of 1918 onwards.

Kerner's primary task was to examine the political life and government as well as the situation of minorities in the Monarchy and their participation in politics and government. In 1918 the researcher of Czech descent wrote approximately two dozen numbered reports in which he formulated surprising theories. For example, he presented the Dualist system as a personal union, although he knew very well that this was not true. He postulated that the survival of the Habsburg Empire would only "serve the interests of the Catholic Church, the Jews, and Western pacifists". He described the Slavs as "more democratically inclined" than either the Hungarians or the Germans (306). He misrepresented the issue of nationalities in a similar manner: in Hungary, people who are not "Magyar" (ethnic Hungarian) are denied the freedoms of religion, education, speech, association, and the press. Hungarian political life was, in his view, dominated by the

²⁷ This subchapter partly draws on chapter 9 of my book from 1998 (Glant: *Through the Prism*) in its analysis, but also contains additional pieces of information. For the reports of the Inquiry related to Hungary see Tibor Glant, ed.: *Az Egyesült Államok útja Trianonhoz. Az Inquiry és Magyarország jövője, 1917–1918. Sources.* (Trianon-dokumentumok és tanulmányok 5.) Budapest: BTK, TTI, 2020. Only the identification number of each report is given in the text because the citations can be found in the documentary publication. For a list of all reports of the Inquiry related to Hungary, see pages 49–53. The originals are in Archives II and at SML, Yale.

„landed gentry”, the minorities lived in Ku Klux Klan-like terror (311). Keeping the Monarchy together

“maintains the old terrorist order in areas previously ruled by Germans and Hungarians, and extends it to Serbia and Montenegro, where radical democracy used to rule. He plans the end of the Slovenians, the Serbs in Hungary, the Yugo-Slavs living in the coastal ports...” (310).

His political commentaries were similarly straightforward:

“Corrupt practices, bribery, forgery, diet packing, and career-exploding practiced by the Bans and their henchmen in Croatia, as in Hungary, reduce the institutions of both to so much paper” (306).

In another report he claimed about the “Yugo-Slav nation”:

“The Serbs and Croats belong to the same nation although writing their language in two alphabets, the Latin and Cyrillic, and worshipping in three religions, Catholic, Serb Orthodox, and Mohammedan” (310).

It is hardly surprising in light of the above quotations that Kerner’s bias was noted by his American colleagues. An assessment of his work reads, in part, “Owing to the fact that Professor Kerner is himself of Czech descent and an enthusiastic Czech nationalist, it is felt that his work requires careful checking up by men of cooler judgement.” However, this was rarely the case. One of Kerner’s memoranda was filed together with an unsigned review, according to which the Czech expert’s reports should be returned for revision because the author tends to insert the biased views of the Czechs into his reports but

fails to list his sources. During revision particular attention should be paid to eliminating all the propagandistic elements.²⁸

A survey of the reports on economic issues related to Austria-Hungary suggests lack of interest and effort. It was Clive Day's task to study the economic life of the Danube Basin, and he prepared two longer reports (112 and 1007) and several statistical collections about Hungary. In his first report he examined, solely based on pre-1913 data, Austro-Hungarian railways and waterways, exports and imports, agricultural production and mining. He concluded that the economic life of Austria-Hungary was at the level of the Balkans, and its main external trade partner was Germany. He could have got a more complex view if he had also included Hungarian light and food industry, banking, and animal husbandry; but this was simply not done. His statistics on internal and international trade, industry and forestry, and so on, were primarily based on official Austrian sources, which he did not comment on (39, 860, and 883). Day's reports clearly show that little attention was paid to the economic life of the Carpathian Basin during American peace preparations.

Both Kerner and Seymour dealt with Slavic territorial aspirations and the possible reform of the Monarchy. These reports were of particular importance. In this respect Kerner's language skills and his outstanding historical education, at least by American standards, really mattered, but he tended to misuse his knowledge regularly. He wrote his most interesting reports (310, 312, and 316) on these issues, but the leaders of the Research Committee insisted that he rewrite them. He analysed in detail, but in a highly biased manner, the problems and possible solutions to the federalization of the Monarchy. He supported, among others for strategic reasons, the plan of the Czech-Yugoslav corridor demanded by Masaryk (which would have resulted in the loss of much of Transdanubia for Hungary). The obvious contradictions in Kerner's writings can be explained by the fact that he had to follow Wilson's instructions when working on federation plans, while in

²⁸ The unsigned, three-page evaluation by Shotwell is attached to document 306 of the Inquiry. This is printed in full in Hungarian in the documentary reader cited in the previous footnote (pp. 172-174).

other instances he felt he could freely voice his opinion and directly or indirectly call for the dismemberment of the Monarchy.

At first Seymour studied these issues from a statistical point of view (January–February 1918). For example, he correctly understood the territorial claims of the South Slavs but he did not take any position in relation to them; he only noted that the population of the disputed territories is ethnically rather mixed (520). In another memorandum he rejected the plan of the Czech-Yugoslav corridor on the grounds of ethnic and economic considerations, and he successfully defended his position at the peace conference as well (517). In a third paper he opposed the granting of the areas of a Romanian majority of Hungary to Romania, yet he did not set out his concrete arguments (516). Seymour considered both the federalization and the reorganization of the Monarchy on the basis of trialism viable. In his view the political balance in the Monarchy could be restored by giving equal rights to the Poles or the South Slavs with the Austrians and the Hungarians. He thought that Polish trialism was the best solution and it could be achieved through the union of all territories populated by Poles. He argued that it could be carried out during the war, and it could break up the Habsburg-Hohenzollern alliance (507). He thought that South-Slav trialism was also a viable option, and he prepared four different versions for it. Interestingly, Hungary would have lost Croatia, Fiume, and the Slovenian territories in each version (506). Seymour regarded the reorganization of the Monarchy on the basis of federalism as a welcome alternative to trialism. His memorandum of May 25 is the only American report that sets out the question without any blatant political bias. Seymour suggests that an alliance created by six states should be established instead of the Monarchy. Parties to the planned confederation would be Bohemia, Yugoslavia, Poland-Ruthenia and Transylvania, besides, of course, Austria and Hungary. Seymour acknowledged that “this partition would hardly satisfy the different ethnic and political groups of the Dual Monarchy”, but “it would have the practical advantage of merging the already existing administrative units without the need to modify the borders.” According to the head of

the Austro-Hungarian study group this settlement plan would consider the historical borders, and it would create ethnically homogeneous (or almost homogeneous) states. Hungary would be the largest one among the six states with regard to its territory and population, and thus, it would be the leading power of the alliance. In exchange, it would have to give up Transylvania, Croatia, and Slovenia; altogether a territory of 22 thousand square miles and almost 5 million people (509). This plan may have seemed feasible to Seymour in May 1918, but it is difficult to believe that any major political force in power in the Danube basin would have subscribed to it.

The turnaround in Wilson's diplomacy during the late summer and early fall of 1918 opened a new chapter in the history of the Inquiry. Bowman took control from Mezes by August and established the Research Committee to enhance performance. The structure of the Inquiry actually had been reorganized earlier in May: 12 of the 29 thematic study groups dealt with territorial issues, the others focused on international relations, international and labour law, statistics, etc.²⁹ The Austro-Hungarian division got new tasks as well: direct preparation for the peace conference started, and the experts had to concentrate on the determination of the new borders. Most of the work was still carried out by the trio of Seymour, Day, and Kerner. To facilitate their work, research assistants were assigned to help them in September 1918. This clearly indicates the importance of the division's work. The Austro-Hungarian study group, partly disregarding the new situation, elaborated an ambitious plan for the period between August and November of 1918. According to this, they would have liked to work out, on the grounds of ethnic, religious, cultural, economic, and historical considerations, as well as weighing and presenting the views of the interested parties, possible road maps for the partition, federalization, and trialist reorganization of the Habsburg Monarchy.³⁰

²⁹ On Bowman's takeover see Smith 2003 *op. cit.*, 126–130. On the reorganization of the Inquiry see "Report on the Inquiry", May 10, 1918. In: *FRUS PPC 1*, 82–83.

³⁰ Day–Seymour–Kerner: "Program of Topics Suggested by Collaborators for Research in Austria-Hungary to November 1, 1918". July 25, 1918. 17 p., Inquiry Papers (Ms. 8), box 7, folder 62, SML, Yale.

Compared to these ambitious plans, the work of the division was far more modest in the second period. During the last three months of the war the group collected and processed about 150 maps, prepared card catalogues, and finalized its proposals on “just and practicable” borders.

The most important change was the switch from writing long memoranda to compiling easy-to-use card catalogues. For example, a “who’s who” was created which contained some 60 portraits of politicians supporting the dismemberment of the Monarchy. The catalogue which presented the political parties, the press, and the leading politicians of the Monarchy was not particularly convincing. The members of the group might have felt this as they did not complete the collection of materials. There were three additional statistical catalogues concerning the Monarchy. These analysed population density, religious statistics and language use, as well as industry, in some cases broken down by administrative districts. Only the official German-language statistics published in the Monarchy were cited as sources. When the armistice negotiations started Seymour and others created an index consisting of 61 cards on the committee materials relating to the Monarchy.³¹ Of course, the card catalogues were taken to Paris.

In the meantime, Bowman and Mezes sent senior Columbia geographer Douglas W. Johnson, holding the rank of major, to Europe to contact the French and British peace-preparatory committees. Johnson interviewed numerous European politicians; we can find his recorded conversations among the reports of the Inquiry. However, his letter to Bowman dated May 9, 1918 is more important; it reveals how the informal personal network between American and British geographers operated, and, indirectly, why the Austro-Hungarian division of the Inquiry stopped working on population and economic statistics. The reason for the latter can be found in the work of British

³¹ These are in the Washington collection with one exception: RG 256 ACNP, Items 5–8, Archives II. The catalogue of reports on the Monarchy can be found at Yale: “Inventory [of Inquiry material]: Austria-Hungary” n.d. Inquiry Papers (Ms. 8), box 26, folder 28, SML, Yale.

researcher B. C. Wallis. Bowman, who officially headed the Inquiry at that time, decided to publish various studies by Wallis on the 1910 population census and ethnic composition of the Monarchy in the *Geographical Review* (which he also edited). Wallis was deemed the ultimate authority on these issues in the Inquiry, which then operated in the building of AGS.³²

In the last days of August 1918 Bowman asked Mark Jefferson, his mentor and the leading geographer of the AGS, to take charge of the slowly developing map program. Boasting the well-sounding rank of "chief cartographer", Jefferson achieved considerable results in a short time.³³ However, the maps of the Austro-Hungarian division were neither organized nor catalogued, so they are of limited use for research today. Most of them were printed publications displaying mainly ethnic and economic information. Several maps were hand-made and coloured. The proposed borders were often marked on them in different colours, and they were attached to the relevant memoranda. Later these maps were separated from the reports, and in most cases, it is impossible to determine which map belonged to which report.³⁴

Based on instruction dated September 23, 1918 (which reached the Austro-Hungarian division only on October 1) the team drew up its final, detailed plan for borders. Although the memorandum was the result of the whole section's work, it was catalogued under the name of Seymour at the headquarters. This report of about 100 typed pages reached Colonel House, and it served as a foundation for the Inquiry's

³² Gelfand 1963 *op. cit.*, 126–129. An interesting addition regarding Wallis: while the Czechs, Yugoslavs and Seton-Watson declared the data from the 1910 Hungarian census a deliberate forgery, the English scholar considered them authentic. B. C. Wallis: "The Peoples of Hungary: Their Work on the Land". In: *Geographical Review* Vol. 4, No. 6 (December 1917), 465–481. On page 473 he specifically states, "The net result of all these considerations is that the census returns must be taken as accurate."

³³ Geoffrey J. Martin: *Mark Jefferson: Geographer*. Ypsilanti, MI: Eastern Michigan University Press, 1968, 167–198.

³⁴ Maps and Charts Relating to Austria-Hungary, 1917–1919 (128 items), RG 256 ACNP, Item 51, Archives II. There is also a 78-item Balkan map collection (Item 52) and a handwritten list with no author that does not accurately list existing maps. According to the archival index, the maps were separated from the reports for the Peace Conference.

so-called "Black Book". The Black Book contained the official boundary proposals of the ACNP and was finalized only in Paris, in January 1919. The full title of the memorandum was "Epitome of Reports on Just and Practical Boundaries within Austria-Hungary for Czecho-Slovaks, Jugo-Slavs, Rumanians, Poles, Ruthenians, and Magyars" (514).³⁵ The proposed borders were drawn, as explained in the introduction, with a view to ethnic considerations and were modified only if the (military) topography of the given territory, uneven linguistic borders, or the separation of the agglomeration of larger cities and mining areas made it necessary.

According to the memorandum, 1.2 million Hungarians would live in Czechoslovakia in the future and 160,000 would live in Yugoslavia. Romania would get Transylvania, and 95,000 Hungarians would live beyond the Ruthenian border. Lastly, the report examines Hungary and proposes the preservation of the historical borders between Austria and Hungary. The territory of this "smaller Hungary" would be 112,000 square meters, which would amount to 40% of the pre-war territory of the Kingdom of Hungary. 80% of the population (7.5 million people) of the planned new Hungarian State would be Hungarian, and the proportion of Germans would decrease to 11% (1 million people). In the rather short section on Hungary, Seymour writes,

"It is obvious that in the attempt to secure just and practical boundaries for the subject nationalities, frontiers have been proposed which, from the Magyar point of view, are unjust. Of a total population of about ten millions, nearly a quarter are excluded from the suggested Magyar state. This might be possible in the case of a people newly liberated and securing sovereignty for the first time in existence. But the Magyars have been masters in Hungary for eight centuries; to place a large percentage of them under foreign domination will certainly arouse dissatisfaction and possibly a spirit of irredentism which might prove to be a germ of serious disturbance in the future."

³⁵ Memorandum No. 512 is a brief, 11-page summary of this.

The second part of the report analyses the possible economic impacts of the new borders. According to Seymour, Hungary remains largely agrarian but loses a significant proportion of her mineral resources. She will most likely sustain her lively commercial relations with German Austria and South Germany, will have free access to the Black Sea through the Danube, and free access must also be secured to the Adriatic. However, this latter matter is not of primary importance given the agricultural nature of the country. Most of the new Hungary's trade will be conducted within Central Europe.

The most honest thoughts of the Inquiry's last report regarding the case of Hungary can be found in the introduction to the main body of the text of the memorandum:

"The Committee is forced to the conclusion that the frontiers proposed are unsatisfactory as the international boundaries of sovereign states. It has been found impossible to discover such lines, which would be at the same time just and practical. An example of the injustice that would result may be instanced in the fact that a third of the area and population of the Czecho-Slovak state would be alien to that nationality. Another lies in the placing of a quarter of the Magyars under foreign domination. But any attempt to make the frontiers conform more closely to the national line destroys their practicability as international boundaries. Obviously many of these difficulties would disappear if the boundaries were to be drawn with the purpose of separating not independent nations, but component portions of a federalized state. A reconsideration of the data from this aspect is desirable."

This report summarizes the work of nearly one year of the Austro-Hungarian division of the Inquiry and it acknowledges the failure of the venture in terms of "just and practical boundaries".³⁶ If we compare

³⁶ We published the full text of this report in Hungarian in our documentary reader (note 27 above), 213–235.

this report to Seymour's May 25 plan of federalization and the Black Book of January 1919, we may conclude that the head of the Austro-Hungarian division finalized his border proposals as early as May 1918. All later modifications are adjustments to accommodate Wilson's policy reversal towards Austria-Hungary. This can best be proven by the case of Slovakia. In May Seymour suggested that Hungary should keep this territory, but he marked with a dotted line the Slovak territories that might be given to Bohemia. As the partition of the Monarchy and Hungary was a foregone conclusion in October 1918, Seymour simply replaced the dotted line with a solid one. This old-new line then was included in the Black Book.

This report is one of the Inquiry's few documents that, at least in part, addressed the Hungarian position. This raises the question whether the Inquiry had any means and opportunity to employ a Hungarian-speaking researcher who could have interpreted and perhaps even represented the Hungarian position. In other words: had there been a demand for it, could the Inquiry have identified the Hungarian standpoint or not? The answer to this question is definitely yes. Let us take a look at the details.

In October 1917 an unidentified Dr. Green offered his services to the committee. On November 3, 1917 Coolidge wrote to Shotwell, "I am sending along Green's Hungarian article. To tell the truth it does not impress me. [...] At the same time a man who knows Hungarian is not to be found every day and I am not sure we may not want to use Dr. Green. Owing to his training he would be able to investigate the subject and we need not particularly accept his conclusions." Shotwell appeared to have left Coolidge's recommendation unanswered.³⁷ A Hungarian-speaking researcher was still in demand, and Day made two further unsuccessful attempts to acquire somebody in July 1918.

³⁷ For the letter see Archibald Cary Coolidge Papers, Correspondence, box 1, folder: "The Inquiry: Peace Aims", Pusey Library, Harvard. I have found no trace of Shotwell's response here, nor among his papers at Columbia, in Washington, or at Yale. A copy of Coolidge's letter is also kept in the Washington archives of the Inquiry, also under Coolidge's name in the correspondence file.

Gelfand presented several cases when they could not hire researchers because of their shaky national security background.³⁸

A concrete example proves that the Inquiry was not really interested in the Hungarian perspective. At the request of Bowman, Mary Scudder, the assistant of the head of the National Research Council, conducted a series of interviews with several immigrants and emigrant organizations, among others with the journalist Géza Kende, the key New York Democrat Sándor Konta, the Reverend Harsányi, and the noted book collector Károly Feleky. According to a report sent directly to Bowman but never digested, Feleky was

“the possessor of most unique library on works pertaining to Hungary, all the books being in English. The library has cost him a great amount of money although he does not emphasize that point. He spent a very sultry afternoon climbing up a small ladder and selecting books that pertained to our subject and those [t]hat were the best authority. [...] Through Mr. Feleky we have secured references that could only have been obtained after a great amount of research and some of these sources we would never have located without his aid.”³⁹

The Inquiry acquired numerous statistical summaries and maps about the Habsburg Monarchy, but the sole pro-Hungarian source in

³⁸ Allyn A. Young's letter to Clive Day, July 3, 1918, and Day's letter to V. G. Simkhovitch, July 11, 1918. RG 256 ACNP, General Correspondence of the Inquiry, box 4, folder: "Day", Archives II. Young was head of the Research Committee. See also Gelfand 1963 *op. cit.*, 75–76.

³⁹ Inquiry 110 (Archives II): Mary T. Scudder: Foreign Organizations, Societies and Individuals that Might Become a Source of Information to the National Research Council. May 14, 1918. 110 p. There is another 169-page report from C. D. Davenport to Bowman under the same title, but dated November 25 (also part of Inquiry memorandum 110). A third report was sent to Bowman on December 13, 1918, by Davenport: Inquiry Papers (Ms. 8), Correspondence, box 11, folder: "Ethnic Groups US/Scudder", SML, Yale. Feleky's collection was eventually acquired by the Library of Congress. For details see Kenneth E. Nyírády: *The History of the Feleky Collection and Its Acquisition by the Library of Congress*. Washington, D. C.: LoC European Division, 1995.

English they used was the two-volume work of the English author C. M. Knatchbull-Hugessen published in 1908, *The Political Evolution of the Hungarian Nation*. Furthermore, the Hungarian-American journalist Jenő Bagger-Szekeres regularly published in English in the *New Republic* (formerly edited by Lippmann). There were clearly various opportunities for the Inquiry to get acquainted with the Hungarian take on the various matters its experts were studying, but the staff of the Austro-Hungarian division was not really interested in these.⁴⁰

An in-depth study and analysis of the Inquiry's memoranda, maps, and card catalogues on Hungary (and in a broader context on Austria-Hungary) offers far reaching conclusions. Most importantly, the work of the committee was biased from the start as it ignored the Hungarian perspective on the issues it considered while Kerner and the two Romanian experts (Handman and Reed) openly used the anti-Hungarian atrocity propaganda materials generated by the Czechs, South Slavs and Romanians. Consequently, the Austro-Hungarian division had no chance to correctly evaluate the economic-political situation in the Danube-basin. However, we must not forget that the review of Kerner's reports shows that this was due more to negligence than to animosity.

Second, Seymour's work deserves special attention as he was the one who drew up the committee's only serious plan for federation and its final boundary proposals. Seymour, who represented the Americans both in the Czechoslovak and the Romanian-Yugoslav Territorial Committees in Paris, did not understand the Central European mentality. His statistics and reports on Yugoslav trialism indicate that he approached the question merely as a logical challenge. The problem with this is that he tabled his proposals ignoring the many irrational characteristics of the region. The Hungarian political elite would obviously have rejected the plan of federalization in May 1918 and also the American boundary proposals of October 1918 or January 1919. The fact that the American proposal would have created a Hungary considerably bigger than what the victors approved in Paris in 1919

⁴⁰ Glant 1998 *op. cit.*, 172-182.

(112,000 sq. kms as opposed to the preset-day 93,000) makes Seymour's proposal look attractive with hindsight only.

Third, Seymour was correct in suggesting that by approving the dismemberment of the Habsburg Monarchy the President himself cancelled out any chances of the regional integration he hoped would replace the rule of Vienna and Budapest in the Danube basin. The fact that the Inquiry's Austro-Hungarian division was unable to offer a practical and just proposal after a year's worth of research, and openly acknowledged it, shows that the American plan for a "scientific peace" had failed before the end of the war. This failure was not due to the lack of intellectual capital the experts invested in the project but the direct result of the President drastically changing the previously assigned direction of research in the summer of 1918. Then, because of the sudden termination of the conflict, Seymour and his team had no chance to complete the new project in less than three months (early August to early November).

That is why, in Paris, President Wilson insisted on creating the League of Nations as a first step and closing the war with one, general peace treaty. He suggested that international experts of the League of Nations should finalize the various European borders once wartime hatred had cooled off. Thus, the failure of a "scientific peace" was obviously recognized and acknowledged in time, before the Peace Conference even started. This became most obvious in connection with the future of Hungary.

The plan of a Danube Confederation (a form of regional integration preferred by Wilson), which would have taken the role of the Austro-Hungarian Monarchy, had failed to materialize during the war and not in Paris in 1919. The successor states could hardly be expected to cooperate when they had territorial claims against one another. And this was confirmed by the final report of the Austro-Hungarian division of the Inquiry, too.⁴¹ The combination of Masaryk's "New

⁴¹ In the fall of 1918 in Washington, under the auspices of the CPI, an attempt was made to organize a "Mid-European Union" upon American initiative, but due to overlapping territorial claims, it "refused to be born." For details see Glant 2008 *op. cit.*, 200–203.

Europe” project and French security concerns resulted in the unilateral and dictated peace of the victors. Its long-term consequences are all too obvious.

6 The Inquiry in Paris

The First World War dragged on endlessly but ended rather abruptly, in six weeks between the Bulgarian surrender and the armistice signed by the Germans. On September 30 Bulgaria requested a ceasefire and six weeks later the Germans also laid down their arms. In the middle of October Colonel House travelled to Europe (again) for the armistice negotiations and asked Lippmann and Frank I. Cobb, who were in Paris working for American intelligence, to summarize the changes that occurred in the fourteen points. The Lippmann-Cobb interpretation was published in the Allied papers and communicated to Vienna through diplomatic channels. It was made abundantly clear that the original point ten on the federalization of the Monarchy was no longer in force.⁴² In the absence of House, President Wilson asked the State Department to coordinate preparations for the Peace Conference. The victorious allied and associated powers agreed that the conference would take place in Paris and that the great powers would be represented by 5-5 plenipotentiaries.

The composition of the American peace delegation has been the subject of intense debate ever since 1918. The majority of the 1,300-member delegation, including President Wilson himself, left for Paris on the *USS George Washington* on December 4, which indicates that the White House had only a month to set up the delegation. In the mid-term elections on November 5 the Democrats lost their majority in both Houses of Congress. The Republicans gained two dozen seats thereby forming a 240-192 majority in the House of Representatives,

⁴² Charles Seymour (ed.): *The Intimate Papers of Colonel House*. Vols. 1-4. Boston and New York: Houghton Mifflin Co., 1926-28, 4: 156-163 and 198-209. The former is the background on, the latter is the full text of the Lippmann-Cobb memorandum on the 14 points.

and they turned around the Senate: from 44-52 to 49-47. Thus, for the first time since 1908, they held a majority in both Houses again. In light of this, it is surprising that there was only one Republican among the five American plenipotentiary delegates: Henry White, a retired diplomat, who had personal contacts with both House and Wilson. The White House itself made a political issue out of the composition of the delegation and had to pay for it dearly when in the summer of 1919 the Republican majority rejected the Treaty of Versailles. The subsequent "treaty fight" was lost by Wilson: He then he suffered a major stroke (October 2) and his wife ran the affairs of the country until the election of 1920. Thus, the American government operated without the president from December 4, 1918 until the end of Wilson's second term (March 1921) as the chief executive was first in Paris and then his health prevented him from performing his duties.⁴³

Mezes first tried to exclude Bowman from the delegation. On Wilson's intervention, however, he ended up as head of the Territorial, Economic, and Political Intelligence Division of the ACNP. Out of the 100 plus members of the Inquiry 23 (later a total of 35) researchers travelled with Wilson. According to Lansing's original plans the State Department delegation headed by Joseph C. Grew, who performed secretarial duties for the ACNP, was to mediate between the five plenipotentiaries and the experts, but House did not agree to this. The commission to Paris also meant the formal termination of the operations of the Inquiry as the 35 researchers in Paris officially received their salaries from the State Department. Due to House's influence the group retained a special status, but its role clearly changed.⁴⁴ During the Peace Conference the former members of the Inquiry worked mainly in the field (Coolidge in Vienna), in territorial (boundary) committees (Mezes, Seymour, and Day), and took part in

⁴³ For details see Tibor Glant: "Wilson Párizsban: Trianon amerikai háttere". In: Zoltán Kovács and Levente Püski (eds.): *Emlékkönyv L. Nagy Zsuzsa 80. születésnapjára*. Debrecen: Történelmi Intézet, 2010, 73–83. Wilson may have invited Elihu Root, a Nobel laureate then heading the Carnegie Endowment for International Peace, or any key Republican in Congress, e.g. Henry Cabot Lodge, Sr. of Massachusetts.

⁴⁴ Gelfand 1963 *op. cit.*, 160–169 and 176–180.

the drafting of international labour law agreements (Shotwell) and the Covenant of the League of Nations (Miller).⁴⁵

In Paris, the experts who had worked on a “scientific peace” during the war were now charged with diplomatic tasks. As has been mentioned, Mezes wrote in 1921 that scientists had to be entrusted with the preparations for peace because diplomats were not trained to do so. In Paris roles were reversed: non-diplomatically trained academics performed crucial diplomatic and political decision-making tasks. This further intensified the tensions between the Inquiry and the State Department. According to Walworth, in Paris the American delegation split into four rival units as the economic experts (headed by Bernard M. Baruch) and the American Relief Administration (headed by Herbert C. Hoover) also tried to secure room for independent action for themselves.⁴⁶

The former members of the Inquiry played an active role in shaping the future of Central Europe at the Paris Peace Conference: some of them worked in the field (in the Danube basin) while others in Paris in the various committees. Field work was coordinated by Archibald Cary Coolidge from Vienna. Coolidge was appointed on November 16 and travelled to Paris on November 25, 1918. From there he set out with his team of 11 people on December 27 but did not arrive in Vienna until January 5, 1919. Robert Kerner was also a member of the mission and he was active in resolving the Czechoslovak-Polish and Yugoslav-Austrian border disputes. Following the expiration of his mandate, Coolidge returned to Paris on May 22. He was replaced by an official State Department mission headed by Albert Halstead. Halstead previously served as Consul-General in Vienna. His appointment was a clear sign that preparations for the Austrian peace treaty had been completed in Paris. Coolidge arrived in Paris on May 27 where he immediately joined the work of the ACNP. After the signing of the German peace treaty, Wilson and House (on June 29) and then Lansing (on July 12) left Paris.

⁴⁵ For a full list of the members of each committee see *FRUS PPC* 3, 1–153.

⁴⁶ On the divisions within the ACNP see Arthur J. Walworth: *Wilson and His Peacemakers. American Diplomacy at the Paris Peace Conference, 1919*. London and New York: W. W. Norton and Co., 1986.

Most former members of the Inquiry travelled with them, and Frank Lyon Polk was put in charge of the ACNP. Coolidge (with Douglas W. Johnson by his side) continued to represent his country in a number of committees: he replaced Mezes in the Central Territorial Committee, and Seymour and Day in the Czechoslovak and Romanian-Yugoslav Territorial Committees. He returned home on September 4.⁴⁷ Bowman was recalled to Paris (October-November 1919) for consultation on the Bulgarian peace treaty and the Polish and Balkans borders.⁴⁸

The vast literature in English on the history of the Paris Peace Conference pays minimal attention to the Central European settlement after the war. Although the conference officially began with the plenary session of January 18, 1919, the debates over organizational and operational issues lasted until the middle of March (and, for example, they could not even agree on the official language to be used). The former Inter-Allied War Council was transformed into the Council of Ten and then was replaced by the Council of Four at the end of March. This was the highest decision-making body at Paris and it also appointed members of the permanent and ad hoc committees. The complexity of the tasks tackled by the Peace Conference is well illustrated by the fact that more than 100 such committees were set up.⁴⁹

The Peace Conference began its work with drafting the Covenant of the League of Nations. Among heated debates, the text was completed by February 14, 1919. Wilson travelled home to present the text to the new Congress. In the absence of the President House made a Faustian deal with the British and the French: there will be no single peace treaty but each defeated state will be dealt with separately; as a gesture

⁴⁷ Harold Jefferson Coolidge and Robert Howard Lord (eds.): *Archibald Cary Coolidge: Life and Letters*. Boston: Houghton Mifflin Co., 1932. (Reprint: Freeport, NY, 1971.), 192–233.

⁴⁸ Geoffrey J. Martin: *The Life and Thought of Isaiah Bowman*. Hamden, CT: Archon Books, 1980, 95–97.

⁴⁹ F. S. Marston: *The Peace Conference of 1919. Organization and Procedure*. London – New York – Toronto: Oxford University Press, 1944. To date this is the best summary of the bureaucratic processes of the Peace Conference. For debates about publicity and the official language of the conference see 65–66.

to Wilson, the first Article of each peace treaty will be the Covenant of the League of Nations. Wilson, who returned to Paris on March 14, was thus confronted with a *fait accompli* and had a serious fall-out with House. The plan of “one size fits all” peace treaties also meant that after signing the German peace treaty the American president thought there was no point in staying any longer in the French capital. In July 1919 the British delegation even suggested that the conference should end, but this did not happen in the end.⁵⁰

The Council of Ten set up the various territorial committees in January. Each committee reported to the Central Territorial Committee, the latter reported to the Council of Foreign Ministers, and then to the Council of Four. The main decision-making body finalized the borders. The Americans were represented by Seymour and Allen Welsh Dulles on the Czechoslovak Territorial Committee, and by Day and Seymour on the Romanian-Yugoslav Territorial Committee. The proposed borders for Hungary were approved by the Central Territorial Committee on March 24 and April 15, and by the Council of Four on May 12. Later on, in June, using the Bolshevik threat as an excuse, the Hungarian-Czechoslovak, the Hungarian-Yugoslav, and the Hungarian-Austrian borders were all modified at the expense of Hungary (where the Communists ruled under Bela Kun between March 21 and August 1).

In Paris Wilson’s principles of peace were clearly not applied. The principle of national self-determination had already been violated by excluding the defeated states; consequently, only the objectives of the “Powers with General Interests” (the big four) and of the “Powers with Special Interests” (the successor states) were considered. As for the new Hungarian borders of 1919–20 only a section of the Western border (Sopron and its vicinity) was subject to a referendum. The situation was further complicated by the various referenda in which the people involved voted by disregarding the ethnic principle. The principle of

⁵⁰ Walworth 1986 *op. cit.*, 437–439.

“open diplomacy” was similarly violated, as only the plenary sessions were open to the press at the Paris Peace Conference.⁵¹

Even if there had been a feasible American peace plan for post-Habsburg Central Europe, it could not have been enforced by the American delegates because of the composition of the various territorial committees. Case in point: the French delegated Jules Cambon to the Czechoslovak Territorial Committee and Andre Tardieu to the Romanian-Yugoslav Territorial Committee. They were both plenipotentiary delegates (members of the official French five). Moreover, they were both experienced diplomats and had strong American connections: Cambon was an ambassador to Washington (during the Spanish-American War of 1898), and Tardieu headed a French military delegation to Washington in 1917. In light of this, it is hardly surprising that French interests prevailed in our region and that the American delegates could only prevent the realization of irrational demands (e.g. the Czechoslovak-Yugoslav corridor or the Romanian border on the Tisza River).

In Paris Hungarian interests were completely ignored, so we can hardly speak of a “just”, “scientific”, or “Wilsonian” peace. Seymour commented on the work in the Czechoslovak Territorial Commission, “My whole line of argument in the Commission has been that the fewer Germans and Magyars in the Czech state the better for it; but Sir Joseph [Cook] insists that our duty is to reward the Czechs for what they have done during the war by giving them all the population possible, regardless of whether or not it wants to be Czech citizens.”⁵² According to the minutes of the May 8 meeting of the Council of Foreign Ministers, “Mr. Lansing said in his view the Council was dealing with the territory which in 1914 had been the domain of Austria and Hungary. It was recognised that this territory was to be dismembered,

⁵¹ George Bernard Noble: *Policies and Opinions at Paris, 1919: Wilsonian Diplomacy, the Versailles Peace, and French Public Opinion*. New York: Macmillan, 1935. See also Marston's work cited in note 49 above. On the outcome of the referendum see Balázs Ablonczy: *Ismeretlen Trianon: Az összeomlás és a békeszerződés története, 1918–1921*. Budapest: Jaffa, 2020, 70.

⁵² Whiteman (ed.) 1965 *op. cit.*, 176.

that Austria and Hungary were to be made separate states, and that their lands were to be limited by new States, whose frontiers were to be determined. The definition would arise automatically as a result of establishing the new States.”⁵³

The two quotations above clearly demonstrate that debates in the various territorial committees revolved not around a fair delineation of future borders but around the justifiably and/or perceived interests of the Successor States (and around the conflicts among them). The bone of contention between Seymour and Cook was what served best the interests of the new Czechoslovak state. Lansing said the same thing: let us draw the borders of the Successor States and what remains will be Austria and Hungary. This has little if anything to do with the settlement plans developed by the Inquiry in 1918.

In addition, the reports of the *interim* American diplomatic mission reopened in Budapest at the end of 1919 prove that in many cases the State Department not only performed traditional consular work but also tried to open the way for American private economic interests even applying diplomatic pressure in truncated Hungary waiting for the peace agreement. The head of the mission, Ulysses Grant-Smith (who had previously served in Vienna) first refused to issue visas to those who, at least in his opinion, intended to travel with non-American shipping companies, and then produced a long report to the State Department on how the Hungarian government discriminated against the American car industry (since it once bought Italian and not American cars).⁵⁴

7 Evaluation of the Work of the Inquiry in Light of Paris

As has been explained, Wilson created the Inquiry in order to draft scientifically based proposals for the post-war settlement primarily in territorial and international law matters. This work had three main

⁵³ *FRUS PPC* 4: 671.

⁵⁴ For details see RG 84 Records of the Foreign Posts of the Department of State, Diplomatic Posts: Hungary, Vols. 1–6. (1919–22), Archives II.

priorities: (1) drawing new borders, (2) "making the world safe for democracy", and (3) supranational cooperation. As regards the issue of borders, the intellectual foundation was Dominian's work with the doctrine of "linguistic borders" and the narrative of the differences between the levels of development of "races". The intellectual basis for (liberal) democracy export was the broadening of suffrage: the basic work used for this was the volume published by Seymour and Frary in 1918. There was no scientific antecedent to the supranational legal-political-economic cooperation. Furthermore, Wilson set out for Paris without a detailed plan even for the League of Nations.

The Inquiry had relatively few real experts in each field; thus, we may conclude that the members of the various divisions learned about the topics assigned to them on the fly and had hardly more than a year to do so. At the same time, there is a marked difference between the performances of the Austro-Hungarian and Balkans divisions: we could hardly find any reports from Day's team to be presented either here or in the documentary reader published in Hungarian. Day penned a history of world trade, also used as a textbook, but its section on the Monarchy (one of the potential intellectual foundations of the work) is only a page and a half long. While the best reports of the Balkans division were obtained from outsiders, in the Austro-Hungarian study group they carried out quality work which, however, was blatantly biased against the Central Powers, as has been documented. Kerner tried to incorporate his own political agenda into the committee's work, and this is clearly evident in the language (evoking atrocity propaganda) he used. In the meanwhile, Seymour worked within the framework set by Wilson. The official American policy was, until early September 1918, to guarantee the territorial integrity of the Monarchy (with the exception of Poland) and to somehow make the empire more democratic and ensure the autonomous development (according to point 10) of minorities living under Habsburg and Hungarian rule. Interestingly, the Inquiry did not draft a single memorandum on the Bolshevik threat. The reason for this may be that the events in Russia

were seen as a short-term historical dead-end and not a real issue of any consequence.

An in-depth analysis of the reports on the Austro-Hungarian Monarchy suggests that the Inquiry did not shape but followed Wilson's policy. Seymour and his team clearly knew that the restoration of the *status quo ante bellum* could easily be the result of a compromise peace and that a total victory of the Allies could result in the partition of the Monarchy (which was expressly supported by a member of the group, Kerner). The Austro-Hungarian research group worked only on the plans for the federalization of the Monarchy and the various trialist options that could potentially replace Dualism because it was commissioned to do so. When Seymour's team was instructed to synthesize new political goals (Wilson's new policy of supporting the dismemberment of Austria-Hungary) with earlier research on linguistic and ethnic borders, he himself admitted that they could not propose borders that were both fair and practical as international boundaries in Central Europe.

In Paris the former Inquiry staff were entrusted with tasks they were not, nor could possibly be, prepared for. Mezes has been quoted twice before: scientific peace preparation was entrusted to scholars because diplomats were not trained for that. In Paris the opposite happened: scholars took part in diplomatic missions (Coolidge and Kerner) and in political decision-making in the various territorial committees. And it is quite obvious that a Seymour-Cambon dispute on the Hungarian-Czechoslovak border or a Day-Tardieu dispute on the Hungarian-Romanian border would have been a struggle of unequal forces. Moreover, while French diplomats were guided by clearly defined political goals (French security concerns), American scholars had to discuss borders about which they themselves wrote that were unsustainable and would only give rise to new conflicts. In other words: even if there had existed, on a theoretical level, a "scientific peace" guaranteeing "just and practical boundaries" in the Danube-basin, it still would have been impossible to realize in the given political set-up simply because the diplomats of the European Allies (the Brits,

French, and Italians) dominated the decision-making and did not want this to happen. We may even say this is exactly not what they wanted to happen. This is how the new borders were drawn, which defined the political and economic history of Central Europe over the last hundred years. However, the Inquiry should not be blamed for this. From a Hungarian perspective the only well-founded criticism towards the Inquiry may be that they failed to their best to identify and incorporate into their proposals the interests of Hungary, the less significant half of the smaller Central Power.

Bibliography

- Ablonczy, Balázs: *Ismeretlen Trianon: Az összeomlás és a békeszerződés története, 1918–1921*. Budapest: Jaffa, 2020.
- Ablonczy, Balázs: *Teleki Pál*. Budapest: Osiris, 2005.
- Arday, Lajos: *Térkép, csata után. Magyarország a brit külpolitikában, 1918–1919*. Budapest: Magvető, 1990.
- Coolidge, Harold Jefferson and Robert Howard Lord (eds.): *Archibald Cary Coolidge: Life and Letters*. Freeport, NY: Books for Libraries Press, 1971. (Reprint of the 1932 edition)
- Cooper, John Milton, Jr.: *Woodrow Wilson: A Biography*. New York: Vintage, 2011.
- Day, Clive: *A History of Commerce*. New York: Longmans, Green, and Co., 1907. Rev. ed. 1914.
- Dinnerstein, Leonard: *Antisemitism in America*. Oxford and New York: Oxford UP, 1994.
- Dominian, Leon: *The Frontiers of Language and Nationality in Europe*. Published for the American Geographical Society of New York by Henry Holt and Company, 1917.
- Gelfand, Lawrence E.: *The Inquiry. American Preparations for Peace, 1917–1919*. New Haven and London: Yale UP, 1963.
- Glant, Tibor (ed.): *Az Egyesült Államok útja Trianonhoz: Az Inquiry és Magyarország jövője, 1917–1918*. Budapest: BTK, TTI, 2020.
- Glant, Tibor: *Through the Prism of the Habsburg Monarchy: Hungary in American Diplomacy and Public Opinion during World War I*. Highland Lakes, NJ: Atlantic Research and Publications, 1998. (War and Society in East Central Europe Vol. XXXVI; Atlantic Studies on Society in Change No. 95).
- Glant, Tibor: "Wilson Párizsban: Trianon amerikai háttere." In: Kovács, Zoltán and Levente Püski (eds.): *Emlékkönyv L. Nagy Zsuzsa 80. születésnapjára*. Debrecen: Történelmi Intézet, 2010. 73–83.
- House, Edward Mandell and Charles Seymour (eds.): *What Really Happened at Paris. The Story of the Peace Conference, 1918–1919 by American Delegates*. New York: Charles Scriber's Sons, 1921.
- Hunt, Michael H.: *Ideology and U.S. Foreign Policy*. New Haven and London: Yale UP, 1988.
- Joerg, W. L. G.: "Memoir of Leon Dominian". In: *Annals of the Association of American Geographers* Vol. 26, No. 4 (1936), 197–198.

- Link, Arthur S. (ed.): *The Papers of Woodrow Wilson*. Vols. 1–69. Princeton, NJ: Princeton UP, 1966–94.
- Marston, F. S.: *The Peace Conference of 1919. Organization and Procedure*. London–New York–Toronto: Oxford UP, 1944.
- Martin, Geoffrey J.: *Mark Jefferson: Geographer*. Ypsilanti, MI: Eastern Michigan UP, 1968.
- Martin, Geoffrey J.: *The Life and Thought of Isaiah Bowman*. Hamden, CT: Archon Books, 1980.
- Miller, David Hunter: *My Diary at the Conference of Paris, with Documents*. Vols. 1–22. New York, privately published, 1924.
- Nielson, Jonathan M.: *American Historians in War and Peace: Patriotism, Diplomacy and the Paris Peace Conference, 1918–1919*. Bethesda–Dublin–Palo Alto: Academica Press, 2012.
- Noble, George Bernard: *Policies and Opinions at Paris, 1919: Wilsonian Diplomacy, the Versailles Peace, and French Public Opinion*. New York: Macmillan, 1935.
- Nyírády, Kenneth E.: *The History of the Feleky Collection and Its Acquisition by the Library of Congress*. Washington, D. C.: LoC European Division, 1995.
- O'Connor, Thomas F.: "Collection Development in the Yale University Library, 1865–1931". In: *The Journal of Library History* Vol. 22, No. 2 (Spring 1987), 164–189.
- O'Connor, Thomas F.: "Library Service to the American Commission to Negotiate Peace and to the Preparatory Inquiry, 1917–1919". In: *Library and Culture* Vol. 24, No. 2 (Spring 1989), 144–157.
- Ormos, Mária: *Padovától Trianonig, 1918–1920*. Budapest: Kossuth, 1983.
- Papers Relating to the Foreign Relations of the United States. The Paris Peace Conference*. Vols. 1–13. Washington, D. C.: Government Printing Office, 1942–47. (FRUS PPC)
- Seymour, Charles and Donald Paige Frary: *How the World Votes. The Story of Democratic Development in Elections*. Vols. 1–2. Springfield, MA: C. A. Nichols Co., 1918.
- Seymour, Charles (ed.): *The Intimate Papers of Colonel House*. Vols. 1–4. Boston: Houghton Mifflin Co., 1926–28.
- Shotwell, James T.: *At the Paris Peace Conference*. New York: Macmillan, 1937.
- Shotwell, James T.: *The Autobiography of James T. Shotwell*. New York and Indianapolis: Bobbs-Merrill, 1961.
- Smith, Neil: *American Empire: Roosevelt's Geographer and the Prelude to Globalization*. Berkeley–Los Angeles–London: University of California Press, 2003.
- Steele, Ronald: *Walter Lippmann and the American Century*. Rev. ed. New York–London: Routledge, 2017. (Originally published in 1980)

Wallis, B. C.: "The Peoples of Hungary: Their Work on the Land". In: *Geographical Review* Vol. 4, No. 6 (December 1917), 465–481.

Walworth, Arthur J.: *Wilson and His Peacemakers. American Diplomacy at the Paris Peace Conference, 1919*. London and New York: W. W. Norton and Co., 1986.

YUGOSLAV UNITY AND THE DISSOLUTION OF AUSTRIA-HUNGARY

1 Introduction

At the dawn of the 20th century the Southern Slav peoples lived divided into two independent small states, Serbia and Montenegro, and several provinces under the auspices of two empires, Austria-Hungary and the Ottoman Empire. Besides sharing the same language, overwhelming differences prevailed among them in regard to social structure, confessional identity, cultural and historic experience.

The Serbian statehood disappeared along with the Serbian nobility at the beginning of the Ottoman era, and with the gradual liberation of the Balkan nations in the 19th century its new statehood was constituted on ethnic nationalism and the French vision of centralized state-building. By the end of the Balkan Wars, Serbia had emerged as a regional power in the Balkan Peninsula, while its citizens possessed a strong national and confessional identity ingrained by centuries of struggles for independence.

In contrast to the Serbian experience, Croatian statehood had been preserved within the Habsburg Empire, and its features morphed into the Dualist period in the form of a limited Croatian self-government. In effect, this became the symbolic guardian of a fragile Croatian identity in the Danubian Monarchy dominated by German-Austrians and Hungarians. Facing the political and ethnic realities of 19th century Croatia-Slavonia, the Croatian intellectual elite conceived a Yugoslav idea as a form of civic nationalism to eliminate the conflicting national claims of the various Southern Slav groups (who each coveted territories characterized by an ethnic mosaic of Slav and other peoples)

* Postdoctoral Researcher, Mathias Corvinus Collegium, Budapest, Hungary,
patrik.szegho@mcc.hu.

in order to foster political cooperation among the Slav groups within the Habsburg Empire, based on national equality.

Yugoslavism, the idea of Southern Slav solidarity, developed in the 19th century around the belief that the various branches of Southern Slav „tribes” were kin peoples who ought to have united in a common state;¹ nonetheless, in essence, it mostly functioned „as a mobilizing force in the process of constituting the Croatian nation.”² Undoubtedly, the Yugoslav idea was a product of civic or political nationalism which defined the shared political values and visions as the criteria of nationhood and national belonging, rather than cultural or religious uniformity.³ Regions inhabited by the Yugoslavs were politically fragmented lands and featured a remarkably complex ethno-religious and linguistic mosaic. Therefore, the intermixture of the population made it impossible to draw national borders without triggering hostilities among the nationalities. For that matter, the civic idea of political union seemed to be the best solution for the problem created by the competing national aspirations of each of the Southern Slav groups.⁴

The Yugoslav idea transformed a problem into its own solution by requiring the sacrifice of the various national programmes (Pan-Croat/Greater Croatia and Pan-Serb/ Greater Serbia) for the common cause of unification.⁵ Yugoslavism was an artificial national identity promoting primarily the sameness of Serbs and Croats to prevent the dominance of one nation over the other. At the same time Yugoslavism

¹ Seton-Watson, Hugh and Christopher: *The Making of New Europe. R. W. Seton-Watson and the Last Years of Austria-Hungary*. London: Methuen, 1981, 58.

² Gross, Mirjana: Social Structure and National Movements among the Yugoslav Peoples on the Eve of the First World War. In: *Slavic Review. American Quarterly of Soviet and East European Studies* 36(4), 642.

³ Miller, Nicholas John: *Between Nation and State: Serbian Politics in Croatia before the First World War*. Pittsburgh: University of Pittsburgh Press, 1997, 31.

⁴ Jelavich, Charles: *South Slav Nationalism. Textbooks and Yugoslav Union before 1914*. Columbus: Ohio State University Press, 1990, 3; Rusinow, Dennison. The Yugoslav Idea before Yugoslavia. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003, 12; Pavlowitch, Kosta Stevan. *Yugoslavia*. London: Ernest Benn, 1971, 62.

⁵ Rusinow 2003, *op. cit.*, 12–13.

meant the realization of Croatian and Serbian national endeavours, as all lands inhabited by both Croats and Serbs would be incorporated under the sceptre of a unified Yugoslav state. Furthermore, the idea did not specify which branch of the Southern Slavs would be entitled to unify the whole „Yugoslav nation.” By the outbreak of The Great War Yugoslavism remained a partially formed civic national idea. While it laid the foundation for a temporary political cooperation between the Serbs and Croats, its conceptual fuzziness enabled diverging interpretations on the constitutional and political outlook of a common state.

The third and ultimate wave of Yugoslavism emerged in *fin-de-siècle* Dalmatia. Reviving the civic notion of Yugoslav nationhood,⁶ the Croatian middle class replaced the traditionally loyalist pro-Habsburg stance (Austro-Slavism) with a temporary pro-Hungarian attitude (Hungaro-Slavism) in Croatian national politics. Their new political movement known as the *novi kurs* (new direction), saw an opportunity in the political and economic disputes between the Austrian and Hungarian elite to expand the rights of Croatia, and to bring Dalmatia under Hungarian, and thus under Croatian, administration in lieu of Austrian rule. Not only did the rise and success of the Hungarian opposition parties restructure the Hungarian political scene between 1903 and 1905, but it threatened the constitutional foundations of the Austro-Hungarian Compromise. Adjusting to the political realities in Hungary, the *novi kurs* movement successfully mobilized most of the burgeoning Croatian and Serbian entrepreneur and professional classes dissatisfied with the Croato-Hungarian *Nagodba* (Compromise) of 1868, and formed the so-called Croat-Serb Coalition. Being promised the renegotiation of the *Nagodba*, this new alliance firmly stood by the Independence Party's coalition throughout the Hungarian constitutional crisis (1905–1906). Their political activism and electoral successes not only marked the rebirth of the Yugoslav idea but elevated the Southern Slavs question to become the most significant issue in

⁶ Zlatar, Zdenko. The Yugoslav Idea and the First Common State of the South Slavs. In: *Nationalities Papers* 25(2), 389.

the Habsburg Empire. As a result, the various national movements of the Habsburg Yugoslavs became a visible threat to the integrity of the Empire.⁷

2 The Evolution of the Southern Slav Question in the Habsburg Empire

To understand the evolution of the Yugoslav question within the Habsburg Empire the inter-Yugoslav relations have to be examined in light of Hungary's Croatian policy. The Austro-Hungarian Compromise had a considerable impact on the constitutional relations between Croatia and Hungary as well, upsetting the centuries-old constitutional equality in favour of the latter.⁸ Under the new dualist structure Hungary was reunited both with Transylvania and Croatia, and the Austrians let the Hungarian Cabinet deal with the Southern Slavs. As a result, the Habsburg dynasty allowed the Hungarians to enact a separate Compromise with the Croats (the *Nagodba* of 1868). In practice, the Austro-Hungarian Compromise meant Croatia was in a constitutionally subordinated position inside the Kingdom of Hungary. The traditional administrator of Croatia (the Ban) was nominated by, and responsible to, the Hungarian Cabinet, and the Croatian Diet (the Sabor) exercised limited domestic power and self-governing rights pertaining to the affairs of the interior, judiciary and administration. Despite these rights, the crown province was effectively subdued to Hungary in both economic and political terms.⁹

⁷ Okey, Robin: *The Neue Preie Presse and the South Slavs of the Habsburg Monarchy, 1867-1914*. In: *The Slavonic and East European Review* 85(1), 83.

⁸ Tihany, Leslie C.: *The Austro-Hungarian Compromise, 1867-1918: A Half Century of Diagnosis*. In: *Central European History* 2(2), 114-115.

⁹ Katus László: *Horvátok*. In: Ács Zoltán (ed.): *Együtt élő népek a Kárpát-medencében*. Budapest: Auktor, 1994, 173; Katus László: *Sokszólamú történelem: válogatott tanulmányok és cikkek*. Nagy Mariann et al (eds.). Pécs: PTE BTK Történelem Tanszékcsoport, 2008, 9; Péter László: *The Army Question in Hungarian Politics, 1867-1918*. In: *Central Europe* 4(2), 83; Okey 2007, *op. cit.*, 83-84, 94; Pavlowitch 1971, *op. cit.*, 43.

2.1 Divide and Rule: The Khuen-Héderváry Regime in Croatia-Slavonia

Ever since the appointment of Károly Khuen-Héderváry in 1883, the Bans of Croatia¹⁰ governed according to the wishes and interests of the Hungarian Cabinet. The governing Liberal Party in Budapest expected Khuen-Héderváry to solidify Croatia's position in the dualist constitutional design. Eventually, Héderváry established a solid power base and was unchallenged for two decades, firstly by applying a *divide and rule* policy to aggravate Croat-Serb antagonism in Croatia; and secondly, by seizing control of the Croatian National Party, the largest party in the crown province, and transforming it into an ardent and pure *Magyaron*¹¹ political stable. According to the Nagodba of 1868 the Sabor delegated forty Croatian representatives to the Hungarian Parliament, whose mandates lasted until the conclusion of the following Croatian elections. Although in theory the representatives' task would have been to represent Croatian interests in Budapest, the National Party consisting mostly of the Croatian aristocracy conformed to the wishes of the Ban and Budapest. Their obedient and adaptive nature is exemplified by the fact that prior to 1905 their delegates had risen to speak in the Hungarian Parliament only seventeen times, and despite their rights they had expressed their views in Hungarian and not in Croatian. Their spectacular failure to represent Croatian national interests to the slightest degree was criticized even by the Hungarian opposition.¹²

¹⁰ The official name of the state used in Hungarian documents was „the Kingdom of Dalmatia-Croatia-Slavonia” (Dalmát-Horvát-Szlavón Királyság), but the „Croatia-Slavonia” (Horvát-Szlavónország) form was utilized likewise. In this study, the kingdom would be referred to as either Croatia or Croatia-Slavonia.

¹¹ Denomination of politically Pro-Hungarian individuals among Southern Slavs.

¹² Cieger András: Horvát képviselők a magyar országgyűlésben (1868–1918). In: Fodor Pál et al. (eds.): *A horvát-magyar együttélés fordulópontjai*. Budapest: MTA Bölcsészettudományi Kutatóközpont, 2015, 426–428, 435; Okey 2007, 89; Sokcsevits Dénes: A fiumei rezolúció és az 1905 és 1907 közötti horvát-magyar közeledés előkészítése a horvát sajtóban. In: *Századok* 139(3), 751.

As for other measures utilised by Héderváry to control Croatia, he pursued an openly pro-Serbian policy which conformed to the Dual Monarchy's temporary patronising policy towards Serbia. The exceptionally amicable relationship between Austria-Hungary and the Obrenović ruling dynasty of the small Balkan state had lasted until 1903, and this alone had fostered loyalty towards the Habsburg Crown among the Serbs of Croatia and Hungary.¹³ However, the Ban replaced his with a pro-Hungarian policy in Croatia by winning over the Croatian Serbs with offices and symbolic acts, such as recognising Serbian as an official language in 1887 along with the Cyrillic alphabet. Being disproportionately overrepresented in the administration, Croatian Serbs came to exercise an overwhelming influence on the political and administrative life of Croatia during the Khuen-Héderváry era.¹⁴ The electoral law introduced by Héderváry in 1887 had remained for a long time the cornerstone and the safeguard of the constitutional-political arrangement between Croatia and Hungary. The new wealth-based suffrage increased the tax threshold for the right to vote, but automatically granted voting rights to citizens employed in the Croatian administration. This meant that by 1910 the percentage of overall voters in Croatia-Slavonia shrunk to a narrow 2%, while a vast number of Croatian Serbs received the vote within this limited franchise. As a consequence, the overrepresentation of Serbs in the administration and in the Sabor ingrained hostility between Serbs and Croats for decades, as the animosity towards the Héderváry regime was redirected towards the Croatian Serbs.¹⁵

Besides the economic and political advantages, the cooperation of Croatian Serbs with the Héderváry regime was further motivated by their angst of Croatian nationalism. In 1881, the Croatian Military Frontier had been abolished and its territory had been returned to the civil administration. Despite fulfilling a long-standing demand of the

¹³ Goldstein, Ivo: *Croatia: A History*. Trans. Nikolina Jovanović. Montreal: McGill-Queen's UP, 1999, 96.

¹⁴ Miller 1997, *op. cit.*, 36–37; Pavlowitch 1971, *op. cit.*, 75.

¹⁵ Goldstein 1999, *op. cit.*, 96; Miller 1997, *op. cit.*, 52–54; Pavlowitch 1971, *op. cit.*, 75; Sokcsevits 2005, *op. cit.*, 758.

Croatian political elite, the reincorporation of Military Croatia into Civil Croatia significantly changed the ethnic outlook of the crown province. As in Military Croatia, the Serbs constituted half of the population and the administrative unification meant that a considerable number of Orthodox Serbs came under the rule of Zagreb: indeed, based on the census of 1910 a quarter of Croatia-Slavonia was inhabited by Serbs.¹⁶ The new ethnic and political realities promoted the formation of the Party of Right which remained the most significant Croatian opposition party until the dawn of the 20th century. Led by Ante Starčević, the party exploited the Croatian pride vested in history and demanded the constitutional and administrative separation of Croatia from Hungary based on the historic rights of Croatian medieval statehood. Furthermore, Starčević propagated the concept of a „Croatian political nation” which misused the civic notion of nationhood to meet the ends of ethnic nationalism.

The concept of „one political nation” resembled its contemporary Hungarian counterpart and regarded all citizens Croats in the national sense, irrespective of their ethnic, cultural, and confessional backgrounds. This approach served as an argument on which the equal national status of Croatian Serbs could have been rejected, rendering any reconciliation or political cooperation between Croats and Serbs impossible. In essence, Starčević argued that regardless of spoken dialects or confessional affiliations all Southern Slavs in the Habsburg Yugoslav regions of Croatia-Slavonia, Bosnia-Herzegovina, and Dalmatia had been Croats. Those „Croats” who did not realize that, namely the Serbs, could be „re-Croatised.” By Starčević’s logic, the existence of the Serbian nation in Croatia was denied, perceiving the Serbs as being merely „Orthodox Croats.” With its nationalist ideas, anti-Habsburg, and anti-Hungarian attitude the Party of Right isolated itself within the Habsburg Empire, while its rhetoric nurtured displeasure and fear among the Croatian Serbs, and fostered the latter’s

¹⁶ Goldstein 1999, *op. cit.*, 93, 96; Miller 1997, *op. cit.*, 16–18.

willingness to serve Hungarian interests in exchange for protection and granted livelihood.¹⁷

Undoubtedly, the Héderváry system created a political standstill in Croatia which could not have been altered by the Croatian opposition's perseverance with the „neither Vienna nor Budapest” approach. After the death of Starčević in 1896, the Party of Right split into two successor parties, while the public mood felt that it had been high time for the revision of Croatian national goals and strategies. As a consequence, a number of new parties emerged in the political scene around the turn of the 20th century. The majority of their young leaders represented a new political generation who were educated either in the most acknowledged universities of the Empire or conducted their studies abroad.¹⁸ Their activities expanded also into the field of culture, education, and journalism, and starting with 1895 their dissatisfaction was oftentimes voiced through street demonstrations. Most of these new political formations took an Austro-Slav stance and wished to revisit the national strategy along pro-Habsburg lines. Consequently, their political programmes envisioned either the overall federalisation of the Habsburg Empire into ethnic subunits or the introduction of Trialism as a means to secure wide-ranging autonomy for Croatia as the third federal unit besides Hungary and Austria.¹⁹ Furthermore, ever since the Nagodba had been implemented the broadening of Croatian political and economic autonomy and the unification of Croatian lands

¹⁷ Miller 1997 *op. cit.*, 42; Pavlowitch 1971 *op. cit.*, 74.

¹⁸ Around 1890's, the Southern Slavs were attracted by the Charles-Ferdinand University in Prague. Many future Yugoslav intellectual and political leaders conducted their studies there, and were inspired by the Young Bohemia movement. Notably, Professor Tomáš Garrigue Masaryk, the Professor of Philosophy, had a substantial influence on them by drawing their attention to the significance of resources as a key to socio-economic affluence. Additionally, the professor had a considerable role in educating his Croatian students and acquaintances on the threat of German economic expansionism, concluding that, in essence, the Southern Slavs had more reasons to fear German aspirations than Italian or Hungarian endeavours (Suppan, Arnold: Masaryk and the Trials for High Treason against South Slavs in 1909. In: Stanley B. Winters (ed.): *T. G. Masaryk, 1850–1937*, vol 1. London: MacMillan, n/a, 211–213).

¹⁹ Goldstein 1999 *op. cit.*, 96–100; Pavlowitch 1971 *op. cit.*, 46–47, 87; Sokcsevits 2005, *op. cit.*, 751.

(notably, the reincorporation of Dalmatia) had been among the goals of all Croatian opposition parties. Albeit that the political transformation of Croatia into a civic state and the industrialisation benefited the crown province, the constitutional-political arrangements between Croatia and Hungary had been a source of perpetual discontent. In effect, the theme of renegotiating the Nagodba was considered a commonplace in Croatian political life.²⁰

Based on the census of 1910, 6.8 million Southern Slavs inhabited Austria-Hungary (13.2% of the population) living in several crown provinces with diverging constitutional legitimacies and political rights. Besides Croatia-Slavonia and Fiume (Rijeka) under the Hungarian Kingdom, Croats lived in the Austrian Adriatic coastline provinces of Istria and Dalmatia, and also inhabited the Southwest regions of Bosnia-Herzegovina. Above the administrative, cultural, historical and religious divergence of these Habsburg Yugoslav lands they displayed regional differences in economic development as well. The economic growth and industrialization of Yugoslav territories were protracted by the policies of Vienna and Budapest, as they were all forced to compete in the market under unequal terms, while financial resources were redistributed to meet the interests of the Austrian-German, Hungarian, and Italian landowning and entrepreneur classes. As a consequence, the burgeoning and broadening of the Yugoslav middle classes were moderate and their local economies achieved average or substandard growth.²¹

Among the Yugoslav crown provinces, the capitalist environment within the dualist arrangement mostly benefited the Slovenian

²⁰ Matković, Stjepan: A horvát politika evolúciója az első világháború előestéjén. In: Fodor Pál et. al. (ed.): *A horvát-Magyar együttélés fordulópontjai*. Budapest: MTA BTK TTI, Horvát Történettudományi Intézet, 2015, 36.

²¹ Calder, Kenneth J.: *Britain and the Origins of the New Europe, 1914–1918*. Cambridge: Cambridge U P, 1976, 5–6; Katus 2008, *op. cit.*, 9, 11, 13–14, 65. The neglect and the secondary position of Yugoslav provinces was apparent in case of Dalmatia and Bosnia-Herzegovina, where investment in the finance and transportation infrastructure considerably lagged behind the average. Unsurprisingly, these two territories were among the most backward provinces of the Empire (Katus 2008, *op. cit.*, 13–14, 65).

territories and the Istrian coastline, although the Serbian and Croatian merchant layer managed to grab a significant share in the grains and flour export of Bácska and Bánát. As a result, the Croatian and Serbian middle classes experienced notable growth towards the end of the 19th century. Eventually, the Croatian National Bank and the Serbian Bank were founded in Zagreb, and these could then provide the local entrepreneurs with sufficient credit to either modernize their agricultural production or to invest in industry. Despite all these achievements, and due to the constitutional-political framework, the middle class could not escape their disadvantaged position within the Habsburg market. Fostered by the common economic interests soon the idea of Serbian-Croatian political cooperation was conceived and gradually gained ground in the burgeoning Croatian and Serbian classes towards the turn of the 19th century. With both being exposed to Austrian and Hungarian competition, the modification of the *Nagodba* arrangement became the key for their long-term economic survival. Consequently, by broadening the rights of Croatia-Slavonia, they hoped that Zagreb would gain a share in the redistribution of economic resources, and could pursue a protectionist policy in the Croatian market.²²

2.2. Hungaro-Slavism and the Advent of the Resolution Policy

In lieu of Croatia the first joint political action was initiated in Dalmatia at the dawn of the 20th century by an initially Hungaro-Slav and Serbophile movement called the *novi kurs* (new political direction). The founders of the movement all came from the Dalmatian Party of Right, who abandoned the party's traditionally anti-Serbian and anti-Hungarian standing. Facing the economic, political, and ethnic realities they reintroduced the Yugoslav idea into political thinking as an instrument to accomplish the long-standing Croatian national

²² Katus 2008 *op. cit.*, 11-12, 42, 65-66.

goals.²³ Eventually, the *novi kurs* was successful in mobilizing both the Croatian and Serbian entrepreneur classes in most of the Yugoslav Habsburg territories, forming the Croat-Serb Coalition, and turning Croatian public opinion temporarily pro-Hungarian.²⁴

The major role in the political genesis of *novi kurs* can be accredited to Frano Supilo, a Dalmatian Croat journalist who moved to Fiume to become the Editor of the *Riječki Novi List* (Fiume New Paper) at the turn of the 20th century. With his optimistic approach and energetic youth spirit, in due time he became a popular and respected figure of Croatian political life. Discovering Hungarian opponents of the Compromise during his first visit to Budapest in 1901, Supilo conceived that a future electoral victory of the Hungarian opposition could be the key to the renegotiation of the Nagodba. Besides regularly reviewing the pivotal questions of Hungarian-Croatian relations in the 19th century, he waited for the right opportunity to influence and reshape the Croatian public opinion to take a pro-Hungarian turn.²⁵

Eventually, the year 1903 brought those significant changes in the domestic and international political scenes which allowed Supilo to pursue his vision. The despised Khuen-Héderváry was appointed Prime Minister of Hungary in 1903 and, accordingly, resigned from the Croatian banishment. In the same year Benjámín von Kállay, the Habsburg joint Finance Minister, an expert on Yugoslav matters and the chief architect of Habsburg Bosnia, passed away. Tension between the ruling Liberal Party and its opposition intensified in Budapest. And the ascension of the pro-Russian Karađorđević dynasty to the Serbian throne resulted in the Danubian Monarchy losing its subservient ally. From 1903 onward, the *Novi List* under Supilo employed correspondents in Vienna, Budapest, and Zagreb, and intentionally devoted more space to giving up-to-date reports on the political developments and crucial

²³ Ganza-Aras, Tereza: *Politika „Novog kursa” dalmatinskih pravaša oko Supila i Trumbića*. Split: Matica Hrvatska, 1992, 66–67.

²⁴ Miller 1997 *op. cit.*, 75.

²⁵ Ganza-Aras 1992, *op. cit.*, 279; Petrinović, Ivo: *Politička misao Frana Supila*. Split: Književni Krug, 1988, 50, 62–64; Sokcsevits 2005, *op. cit.*, 752–753, 757.

affairs of the Dual Monarchy.²⁶ Besides the Dalmatian journalist, the above developments mobilized other members of the young Dalmatian intelligentsia, such as the lawyers Ante Trumbić and Josip Smodlaka, who all decided to join Supilo's pro-Hungarian endeavours. Eventually, the Dalmatian initiation of *novi kurs* transgressed the frontiers of the province and found its way to the Croatian and Serbian middle classes in Croatia-Slavonia.²⁷

To convey the idea of Croatian-Hungarian cooperation the *novi kurs* utilized the anti-German sentiments of the Dalmatian intelligentsia. The source of antipathy against Austria and Austrian-Germans originated in the backwardness of the Dalmatian coastal regions, whose peripheral position had been exclusively blamed on Vienna.²⁸ In regard to Hungary, the opposition Independence Party and its electoral allies²⁹ (commonly referred to collectively as "the Coalition") were perceived to be future partners in the renegotiation of the *Nagodba*. A new settlement with the Hungarians assumed a sub-dualist solution, consequently leaving the dualist arrangement intact, but awarding the crown province with financial independence and an extended self-government. Overall, the *novi kurs* was aware that a new sub-dualist settlement not only required a regime change in Hungary, but

²⁶ Sokcsevits 2005, *op. cit.*, 753; Tanner, Marcus: *Croatia. A Nation Forged in War*. New Haven: Yale University Press, 1997, 111.

²⁷ Ganza-Aras 1992, *op. cit.*, 286; Sokcsevits 2005, *op. cit.*, 752-753.

²⁸ Tanner 1997, *op. cit.*, 110. Owing to the Austrian policy, the tiny minority of Dalmatian Italians – making up only 2-4% of the population in the crown province – could culturally and politically dominate the Dalmatian Yugoslav majority. In many cases, the Dalmatian town counsels were operated by Italians (Okey 2007, *op. cit.*, 85).

²⁹ At the beginning of the 20th century, the Hungarian opposition's growing demand for the revision and the „improvement” of the Compromise – calling for economic separation, electoral and army reforms – clashed with the persistent determination of the Liberal Party's establishment figures to uphold and protect the dualist system. By 1905, the Independence Party, the dissidents of the Liberal Party and other opposition parties formed an electoral coalition to challenge the rule of the Liberal Party and the dualist structure. This grand alliance, commonly referred to as the Coalition, came to being with the political collaboration of radical nationalists, moderate conservatives, and political opportunists (Péter, László: *The Army Question in Hungarian Politics, 1867-1918*. In: *Central Europe* 4(2), 83-84; Stone, Norman: *Constitutional Crises in Hungary, 1903-1906*. In: *The Slavonic and East European Review* 45(104), 165-166, 178).

also demanded the extension of Hungary's rights within the Dualist structure. In reality, their solution was conceived as a long-term plan, while the short-term necessities required a strong coalition in Croatia and Dalmatia to be forged to back the constitutional struggles of the Coalition in Budapest.³⁰

The grounds for seeking political allies among the Habsburg Yugoslavs was taunted by fact or fictitious fear of German economic expansion and Germanisation, which the *novi kurs* viewed as the ultimate threats for the small nations of Eastern Europe. With a fine situational awareness in regard to the political mood in Hungary and the Croatian lands the *novi kurs* proposed an alliance for Yugoslav peoples to battle German intrusion into the region. Eventually, the movement managed to recruit the Serbian Independent Party as its political partner. The Serbian formation was the party of the Serbian entrepreneur class, non-incriminated and non-involved in dealing with the Héderváry regime. Its leaders were involved in the organisation of everyday cultural and community life, and therefore they could exert significant influence over the Croatian Serbs.³¹

However, in view of the Héderváry era the rapprochement of Serbs and Croats, and the creation of a mutual platform, was presumed to be a difficult task. For that matter, the proponents of the new political course abandoned the concept of the „Croatian political nation,” and in lieu of the Croatian historic state right they propagated a new Croatian statehood based on the civil equality of Southern Slavs.³² In essence, the 19th century Yugoslav idea was revived and adjusted to meet the social-political realities of contemporary Croatian lands. The latest

³⁰ Although the text of the Sub-Compromise described Dalmatia as being the part of the Triune Kingdom of Dalmatia-Croatia-Slavonia, in reality, the crown province remained under Austrian jurisdiction. The *novi kurs* perceived the political alliance with the Hungarians as a key to accomplish the long-lasting national aim of unifying Dalmatia with Croatia-Slavonia (Trumbić, Ante: *n/a*. In: *Narodni List*, 11 March 1905). Goldstein 1999, *op. cit.*, 102; Miller 1997, *op. cit.*, 90; Petrinović 1998, *op. cit.*, 64–65.

³¹ Goldstein 1999, *op. cit.*, 96; Petrinović 1998, *op. cit.*, 61, 64–65; Sokcsevits 2005, *op. cit.*, 753.

³² Krestić, Vasilije D.: *History of the Serbs in Croatia and Slavonia, 1848-1914*. Belgrade: BIGZ, 1997, 16.

form of Yugoslavism championed the idea of *narodno jedinstvo* (national unity) between Serbs and Croats, and pursued an ethnically inclusive national programme³³ with the notion of *dva imeni narod* (nation with two names) as a form civic nationhood. As summarized by Frano Supilo below, it regarded the Croats and the Serbs as a single nation based on their common language and shared political values:

Serbs and Croats are one people with two names. They may have two names, two religions, two traditions, two cultures [...] they may kill, they may kiss each other, but in spite of that, from the ethnic point of view, Serbs and Croats are the same peoples, because they are the children of the same Slavic race and because they have the same national language.³⁴

In response to the political developments in Hungary a multiparty meeting took place in October 1905 in Fiume with the participation of Dalmatian opposition parties.³⁵ Marking the beginning of the so-called *resolution policy* the Croatian Club was formed with the fusion of the National Party and the Party of Right of Dalmatia. The Club firmly expressed its support for the Coalition in its struggle for Hungarian state autonomy in a statement known as the Fiume (Rijeka) Resolution. In return for their support, the declaration called for the expansion of Croatian state rights in the framework the sub-dualist arrangements, the termination of the so-far oppressive policy of Budapest towards Croatia-Slavonia, the democratisation of the political life and the unification of Croatian lands. Reported by the majority of the Croatian papers the Fiume Resolution was used to attract the attention of the Serbian Independent Party and the Coalition in Budapest. Furthermore,

³³ Lampe, John R.: *Balkans into Southeastern Europe*. London: Palgrave Macmillan, 2006, 29.

³⁴ Qtd. Trgovčević, Ljubinka: *South Slav Intellectuals and the Creation of Yugoslavia*. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003, 224–225.

³⁵ Participating as private individuals, some members of the Zagreb Sabor attended the meeting likewise (Ganza-Aras 1992, *op. cit.*, 319).

it served to prepare the Croatian public for a pro-Hungarian and pro-Serbian shift by disseminating the notion that the Croatian regime could only be defeated provided political changes prevailed in Budapest.³⁶

The proclamation of the resolution policy received an unexpectedly warm welcome on behalf of the Serbian opposition parties in Dalmatia and Croatia, and two weeks later the delegates of the Serbian Independent Party, and the Serbian Radical Party joined the Croatian initiative in Zara. In the spirit of the Yugoslav idea the Croatian and Serbian parties concluded the Zara (Zadar) Resolution, which acknowledged the Serbs as a constituent political nation, and declared their civil equality with the Croats. In exchange, the Serbian delegates aligned with the points of the Fiume Resolution, and officially joined the common front advocating the unification of Dalmatia with Croatia. Undoubtedly, the Zara Resolution signified a new chapter in Serbian and Croatian relations, which soon witnessed the formation of the Croato-Serb Coalition (CSC), a party alliance inspired by the electoral success of the Hungarian opposition parties' coalition strategy. Besides the points of the Fiume and Zara Resolutions the electoral programme of CSC openly included the extension of civic rights. Moreover, it promised the democratisation of the judicial system, a responsible government, electoral reforms, the protection of industrial workers and smallholders, and last, but not least, the renegotiation of the Sub-Compromise with special considerations given to economic and constitutional-political questions.³⁷

The opportunistic approach of endorsing the Coalition in the course of the Hungarian constitutional crisis eventually paid off. Within a short period of time the CSC's support increased so rapidly that the

³⁶ Banac, Ivo: *Croat-Magyar Relations, 1904–1914: A New Jelačić or the “New Course”?* In: *Slovene Studies* 9(1–2), 45; Djokić, Dejan. *Yugoslavism: Histories, Myths, Concepts*. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003, 140; Ganza-Aras 1992, *op. cit.*, 319; Sokcsevits 2005, *op. cit.*, 757.

³⁷ Djokić, Dejan: *Nikola Pašić and Ante Trumbić: The Kingdom of Serbs, Croats and Slovenes*. London: Haus, 2010, 34–35; Goldstein 1999, *op. cit.*, 102–103; Haslinger, Peter: *Austria-Hungary*. In Robert Gerwarth et al. (ed.): *Empires at War, 1911–1923*. Oxford: Oxford U P, 2014, 76; Petrinović 1998, *op. cit.*, 76, 87; Sokcsevits 2005, *op. cit.*, 754, 757; Tanner 1997, *op. cit.*, 111.

alliance managed to win first the Dalmatian provincial elections in December 1905, and then the Croatian elections in May 1906. As a result, the CSC emerged as the largest political bloc in the Sabor of both crown provinces, and Frano Supilo³⁸ transformed into a renowned public figure across the Danubian Empire. Dissolving shortly after the elections had commenced, the defeated Croatian National Party suffered the same fate as its Hungarian sister party, the Liberals.³⁹

2.3. Disillusionment and Absolutism in Croatia-Slavonia

Adjusting to the secret compromise concluded with King Francis Joseph the Coalition Cabinet in Budapest discontinued challenging the constitutional-political arrangement of the Habsburg Empire. Respectively, their long-advocated national aims – the demand for the Hungarian command of language, the separate and independent Hungarian tariff zone, and a central bank – were abandoned, and from one day to another these plans vanished from their political communication. Due to their political turnabout in Hungary, the tactical alliance with the CSC became a reliability for the Coalition, and soon the persisting great expectations of the Yugoslavs transformed into a source of irritation for Budapest.⁴⁰ The appointment of Sándor Wekerle, a Habsburg loyalist, as Prime Minister of Hungary created a great obstacle in the Croatian-Hungarian reconciliation. By sustaining its pro-Hungarian stance, the CSC avoided political clashes with the Coalition, the bill proposed on railway regulations in May 1907 proved to be an ultimate breaking point. With the nationalist turn in Budapest, the temporary alliance with the Yugoslavs collapsed, and the Croato-

³⁸ Residing in Fiume for many years, Supilo finally applied for a Hungarian citizenship, which he was awarded in the course of only eight days by the Governor of Fiume (Petrinović 1998, *op. cit.*, 81).

³⁹ Djokic 2010, *op. cit.*, 35; Goldstein 1999, *op. cit.*, 102-103; Petrinović 76, *op. cit.*, 87; Sokcsevits 2005, *op. cit.*, 754; Tanner 1997, *op. cit.*, 111.

⁴⁰ Banac 1987, *op. cit.*, 46.

Serb Coalition was soon declared to be an enemy of the Hungarian state for supporting „Pan-Slav ideas.”⁴¹

In preparation for the annexation of Bosnia-Herzegovina, the pacification of Croatia through the re-establishment of a pro-Hungarian and Habsburg loyalist leadership in Zagreb turned into the major agenda for the Coalition Cabinet. The period between 1906 and 1914 saw the repeated dissolution of the Sabor to secure a pro-Hungarian majority; among the five provincial elections, the CSC emerged clearly victorious four times and on one occasion the Frankists triumphed. For this reason, the pro-Hungarian Bans in the late Dualist period utilised both lawful and unconstitutional means to purge Croatia from the proponents of the Yugoslav idea.⁴²

Between 1908 and 1910, the Bans tried to abuse the temporary anti-Serbian sentiments triggered by the annexation crisis to break and dissolve the Croatian-Serbian party alliance. On the orders of Prime Minister Sándor Wekerle and Alois Lexa von Aehrenthal, the joint Foreign Minister, Ban Paul Rauch collected compromising materials against CSC members to mount a mass staged trial.⁴³ Denunciatory articles were published followed by the arrest of fifty-three members of the Serbian Independent Party in 1908, among them priests, entrepreneurs, merchants, intellectuals and farmers. The specific charges were only announced seven months later in March 1909, when the arrested Serbians were charged with high treason⁴⁴ committed in the form of anti-state conspiracy, support of pan-Serb separatist movements, and association with the Belgrade-based, pan-Yugoslav cultural organization, the Slovenski Jug.⁴⁵ Although the treason trial

⁴¹ Banac *ibid.*; Cieger 2015, *op. cit.*, 426–428; Goldstein 1999, *op. cit.*, 103; Petrinović 1998, *op. cit.*, 93, 99–104.

⁴² Cieger 2015, *op. cit.*, 433; Cohen, Lenard J.: *Broken Bonds: Yugoslavia's Disintegration and Balkan Politics in Transition*. Boulder and Oxford: Westview, 1995, 253; Sokcsevits 2005, *op. cit.*, 760, 765.

⁴³ Cohen 1995, *op. cit.*, 253.

⁴⁴ Requested by his former students in the CSC, Professor Masaryk 1969, addressed the issues of the trial in the Reichsrat, and called for the review of the evidence by a parliamentary committee in vain (Suppan n/a, *op. cit.*, 210, 216–217).

⁴⁵ The Slovenski Jug, established in 1904 in Belgrade, was the only Serbian

had been primarily created to prepare the annexation, and to control the pro-Serbian sentiments, it was not suspended even after the Serbian Kingdom officially acknowledged the annexation of the two provinces. Eventually, the verdict was announced on the first anniversary of the annexation, 5 October 1909, with thirty-two defendants sentenced to imprisonment.⁴⁶ Not only did the masterminds behind the trial fail to break up the Croato-Serb Coalition, but the defence attorney, Hinko Hinković,⁴⁷ an elderly member of the CSC, did an excellent job in making a public joke out of both the evidence and the illiterate anti-Serbian witnesses summoned to court. Overall, the mass trial did not increase anti-Serbian sentiments in Croatia, but conversely brought the two nations closer, as the majority of the Habsburg Yugoslavs perceived the Zagreb high treason trial as a staged trial.⁴⁸ With the trial failing its primary objective, all verdicts were suddenly annulled in 1910 without any clarified reasons,⁴⁹ while Vienna and Budapest – growing even more determined to disrupt the CSC – changed political tactics, and set out to destroy the image of the Yugoslav alliance.

Orchestrated by the Foreign Minister, Aehrenthal, the preparation for another anti-Yugoslav trial had been in motion while the treason trial commenced. Heinrich Friedjung, an internationally acclaimed

organization, which stood by the Yugoslav idea (Zlatar 1997, *op. cit.*, 392).

⁴⁶ Dragnich, Alex N: *Serbia and Yugoslavia*. New York: Columbia U P, 1998, 44–45; Suppan n/a, *op. cit.*, 215, 220.

⁴⁷ Hinko Hinković was a lawyer by profession, and had a Jewish ancestry. For a brief period between 1884 and 1886, he was a member of the Party of Right, but opposed Starčević nationalist tone and withdrew from politics. Later he joined the CSC in Croatia, and became a target of political attacks due to his role in the Zagreb High Treason Trial and jailed in 1911. In 1913, he was chosen as one of the Sabor delegates to the Budapest Parliament. Because of his Serbian relations and acquaintances, he emigrated after the Sarajevo assassination (Janković, Dragoslav: *Srbija i stvaranje Jugoslavije*. In: Acković, Aleksandar (ed.): *Politički život Jugoslavije, 1914–1945*. Belgrade: Radio-Beograd, 1973, 202).

⁴⁸ Goldstein 1999, *op. cit.*, 103–104; Miller 1997, *op. cit.*, 130; Seton-Watson, Robert William: *Absolutism in Croatia*. London: Constable, 1912, 227–228; Tanner 1997, *op. cit.*, 113.

⁴⁹ Cohen 1995, *op. cit.*, 9.

historian, published a series of articles in the *Neue Freie Presse*⁵⁰ during the spring of 1909, making allegations about some unnamed members of CSC accepting bribes and payments from Serbia.⁵¹ His efforts in galvanizing public opinion were joined by Friederich Funder, a Christian-Socialist journalist and the Editor-in-Chief of the *Reichspost*, who published translated documents on payments which supposed to support Friedjung's accusations. Additionally, Funder's article accused Frano Supilo, Svetozar Pribičević, Franko Potočnjak and others by name for accepting financial support from the Slovenski Jug and the Serbian Cabinet on a regular basis. As a result of the denunciatory articles, fifty-two representatives of the Sabor eventually sued both the newspapers and the authors for libel.⁵²

In the course of the infamous Friedjung-*Reichspost* libel trial,⁵³ anti-Yugoslav endeavours suffered an embarrassing defeat in court. Firstly, it was proven that Frano Supilo had been attending lectures in Berlin at the alleged time he had supposed to be in Belgrade attending secret meetings. Secondly, based on expert testimonies, the authenticity of the proof documents was questioned. It was soon uncovered that the cash orders and other payments had been fabricated by a false witness, Milan Vašić,⁵⁴ an employee at the Habsburg Legation in Belgrade. With the wide domestic and international press coverage, the ill-conceived Friedjung-*Reichspost* libel trial tarnished Austrian-Hungarian prestige, and came to be an embarrassing political disaster for the Monarchy. The libel trial also proved to be an unquestionable moral victory for the CSC, leading Aehrenthal and Heir-Apparent Francis Ferdinand to interfere and convince the litigant parties to close the case with an

⁵⁰ The *Neue Freie Presse* was a prestigious paper of the Austrian-German liberal middle-class. Acquired a large circulation, by 1914 had more than 114.000 subscribers (Okey 2007, *op. cit.*, 81).

⁵¹ Suppan n/a, *op. cit.*, 221.

⁵² Miller 1997, *op. cit.*, 125.

⁵³ *Ibid.* 125, 131.

⁵⁴ Vašić was later interrogated in Belgrade in 1910 and received prison sentence (Antić, Čedomir: *Ralph Paget: A Diplomat in Serbia*. Belgrade: SASA, 2006, 48–49).

out-of-court settlement.⁵⁵ Although the inter-Yugoslav party alliance managed to persist until the end of the Great War regardless of the trials orchestrated to destroy it, the unconstitutional and overtly absolutist measures of Budapest made its practical and effective operation impossible.⁵⁶

The enduring political struggles – peaking with the two trials and introduction of absolutism – exhausted Frano Supilo, who decided to withdraw from politics, and left the CSC in 1912. After his departure, Svetozar Pribičević,⁵⁷ the President of the Serbian Independent Party, took over the leadership of the CSC. Despite being a supporter of the Yugoslav idea, Pribičević realized that the civic national programme offered by Yugoslavism could not have protected the Serbian community within the Habsburg Empire.⁵⁸ For that matter, he covertly looked for Belgrade as the future unifier of all Southern Slavs, and maintained a close relationship with the Serbian Premier, Nikola Pašić and his political clique.⁵⁹ Upon the request of Pašić, Pribičević on the one hand had remained the President of CSC and sustained the coalition until the end of the Great War; and on the other hand, made a compromise with Budapest by turning himself into a moderate *Magyar*. In 1913, his negotiations with István Tisza, the Prime Minister of Hungary, resulted in the restoration of the Croatian Constitution, the end of

⁵⁵ Cohen 1995, *op. cit.*, 253–254; Miller 1997, *op. cit.*, 125, 131–132; Petrinović 1998, *op. cit.*, 120, 124; Seton-Watson 1912, *op. cit.*, 227–228; Steed, Henry Wickham: *The Hapsburg Monarchy*. 4th edition. London: Constable, 1919, 102, 104; Suppan n/a, *op. cit.*, 217, 220–221; Tanner 1997, *op. cit.*, 113.

⁵⁶ Sokcsevits 2005, *op. cit.*, 765. In 1911, the Hungarian Cabinet suspended the Croatian Constitution, and the crown province was subjected to absolutism marked by the autocratic rule of royal commissariat, the extreme violation of right to free speech and assemble.

⁵⁷ Pribičević became the Minister of Interior and then the Minister of Education in the Kingdom of Serbs, Croats and Slovenes (Suppan n/a, *op. cit.*, 212).

⁵⁸ Cieger 2015, *op. cit.*, 433; Goldstein 1999, *op. cit.*, 105; Miller 1997, *op. cit.*, 167; Sokcsevits 2005, *op. cit.*, 756–766.

⁵⁹ Svetozar Pribičević had a decisive role in that the Serbian vision of the Yugoslav union was realized after the Great War with the passing of the Vidovdan Constitution in 1921. Although, he did not abandon the coalition, but betrayed its founding principles (Miller 1997, *op. cit.*, 136).

absolutism, and additional concessions obtained by the creation of a separate National Economy Department in Zagreb.

Pribičević's rapprochement with the Hungarian Cabinet was firstly fostered by the fear of Budapest concluding an agreement with the anti-Serb Frankists; secondly, he wished to buy time for Serbia which was both financially and militarily exhausted after the Balkan Wars.⁶⁰ Emerging as a regional power, Serbia faced isolation in the post-Balkan War period, while the international situation in Europe pointed towards a future armed conflict. For these reasons the Serbian Premier did not want to weaken the Hungarian Cabinet by any means, as he hoped Budapest could counter-balance the war-party in the Viennese Court. With his perplexing pro-Hungarian attitude Pribičević fulfilled the wishes of Pašić and persisted in maintaining the coalition of the Croat and Serb parties.⁶¹

In the course of the Balkan Wars, Serbia's unexpected military performance – owned to the modernization financed by French loans – surprised even the Dual Monarchy's leadership. With the conclusion of the wars, Serbia doubled its territory and rose to the number one regional power in the Balkan Peninsula. In the midst of the new Croatian political standstill, these developments considerably enhanced Serbian prestige in the Habsburg Yugoslav world,⁶² and the enlarged Balkan state transformed into a model for the rest of the Southern Slavs. With the Croato-Serb Coalition dominating the Sabor,⁶³ Serbian military victories were celebrated publicly in many cities.⁶⁴ But the public manifestation of joy provoked the authorities to intervene by introducing a state of emergency and suspending the work of local authorities.⁶⁵

⁶⁰ Jeszenszky, Géza: Közép-Európa veszte: az I. világháború. In: *Magyar Szemle* 23(9–10), 41; Miller 1997, *op. cit.*, 166–167.

⁶¹ Goldstein 1999, *op. cit.*, 104–105; Krestić 1997, *op. cit.*, 429; Sokcsevits 2005, *op. cit.*, 766.

⁶² Antić 2006, *op. cit.*, 65; Woodhouse, Edward James: *Italy and the Yugoslavs*. Boston: Badger, 1920, 63.

⁶³ Tanner 1997, *op. cit.*, 111.

⁶⁴ Trgovčević 2003, *op. cit.*, 229–230.

⁶⁵ Ćirković, Sima M.: *The Serbs*. Trans. Vuk Tošić. Malden: Blackwell, 2004, 246.

After the spectacular failure of the resolution policy, the founders of the *novi kurs* concluded that a sub-dualist or a trialist solution could not have been expected either from Francis Joseph or the Hungarian political elite. The annexation crisis with the anti-Yugoslav trials, and the suspension of the Croatian Constitution, forced them to abandon plans for Croatian self-government within the Habsburg Empire. However, owing to the increasing Serbophile sentiments, unification with Serbia had become more desirable than ever as the Serbian achievements promoted Yugoslav solidarity and hope that the Yugoslav national aspirations could have been accomplished through liberation. As it was unlikely that the Habsburg Yugoslav territories could have seceded from Austria-Hungary on their own, many leading Southern Slav intellectuals – drawing a parallel with the success of Italian unification – recognized Serbia as a possible Piedmont of Southern Slavs.⁶⁶

Nonetheless, the idea of a „Yugoslav Piedmont“ became popular primarily among the founders of the *novi kurs* and the Croatian intelligentsia. In theory the victories of Serbia made Yugoslavism more appealing; yet in practice Croatian society remained divided on the pan-Yugoslav national programme, with the overwhelming majority preferring a trialist solution as the key to Croatian self-government. Irrespective of this, the idea of a common Yugoslav state established outside the Habsburg Empire with Serbia being the liberator had evolved into the new national programme for the intellectual founders of the *novi kurs*.⁶⁷ Ante Trumbić and Josip Smolaka both held talks with Bosnian Serb politicians and concluded that, provided a future war between the Serbian Kingdom and the Habsburg Empire broke out, the proponents of the Yugoslav Piedmont idea would emigrate to launch an international campaign abroad for the unification Habsburg Yugoslav territories with Serbia.⁶⁸ Despite the speculative and prospective nature of the plan, the assassination of Francis Ferdinand in Sarajevo

⁶⁶ Calder 1976, *op. cit.*, 5–6; Goldstein 1999, *op. cit.*, 103–104; Haslinger 2014, *op. cit.*, 76; Sokcsevits 2005, *op. cit.*, 760; Zlatar 1997, *op. cit.*, 392.

⁶⁷ Cohen 1995, *op. cit.*, 8–9; Goldstein 1999, *op. cit.*, 103–104; Zlatar 1997, *op. cit.*, 392.

⁶⁸ Djokic 2010, *op. cit.*, 35–36; Sokcsevits 2005, *op. cit.*, 766.

proved to be the „sudden and unexpected future event,”⁶⁹ Frano Supilo and the other pro-Yugoslav Croatian intellectuals had waited for. The entirely new international situation which the assassination triggered offered an unexpected opportunity for Yugoslavism.

3 The Southern Slav Question and the Great War

With the outbreak of the Great War, Serbia evolved into the ally of the Entente Powers and the pan-Yugoslav cause soon found such influential, well-informed and devoted allies as Henry Wickham Steed (1871–1956), an English political journalist and the Foreign Editor of the *Times* during the war, and Robert William Seton-Watson (1879–1951), a Scottish historian and journalist, who was among the first Western European intellectuals to write on the Southern Slavs. Their life-long friendship and political alliance dated back to the years spent in Vienna as the correspondents of the *Times* and the *Morning Post*. Disillusioned with the Hungarian political elite and the Habsburg Empire, they would become the inseparable vanguards of the political movement advocating for the general reconstruction of European frontiers during the Great War. Becoming the ardent proponents of Southern Slav unity, Seton-Watson and Steed made the dissolution of Austria-Hungary their self-appointed task,⁷⁰ and introduced the idea of national self-determination as the principle of the peace settlement and an alternative for the preservation of the Habsburg Empire.

The prospect of an independent Croatia realized under the patronage of the Allied Powers triggered the Serbian Cabinet to declare its support for the Yugoslav idea in Serbia's official war aims. In effect, the majority of the Serbian elite envisioned the extension of Serbian statehood to the future Yugoslav territories, and rejected any solutions which would have renounced the sovereignty of the Serbian

⁶⁹ *Qtd.* Banac 1987, *op. cit.*, 46.

⁷⁰ MacMillan, Margaret: *Peacemakers: The Paris Conference of 1919 and its Attempt to End War*. London: John Murray, 2002, 123; Masaryk, Thomas Garrigue: *The Making of a State*. Trans. Henry Wickham Steed. New York: Howard Fertig, 1969, 125.

Kingdom in any ways. Among them, Premier Nikola Pašić and the members of the governing Radical Party were pan-Serb nationalists who stood for the unification of all lands inhabited by Serbs. In theory, Croats and Slovenes could have joined this enlarged Serbian state but only under agreed terms and Belgrade's leadership. In reality, before the outbreak of the Great War Pašić had not displayed any interest in a wider pan-Yugoslav state. Nonetheless, the political realities of the war forced Serbia to assume the role of Yugoslav Piedmont, and seemingly pursue the liberation of all Habsburg Yugoslav lands.⁷¹

Incorporating the Southern Slav territories of the Habsburg Monarchy, the vision of a Croatian state meant an obvious threat for the pan-Serb endeavours. The concerns of the Serbian Cabinet regarding a possible rival Southern Slav state were not entirely groundless, since the idea had been discussed in French and Italian diplomatic circles in September 1914. Consequently, Pašić had no alternative but to espouse the Yugoslav idea to satisfy the Croats and deter the plan of a separate and sovereign Croatia before it had been officially embraced by the Allied Powers. For this purpose, a group of Serbian scholars were assigned with the task of defining Serbia's war aims and emphasizing that the Habsburg Monarchy could not have retained its Southern Slav possessions, and that these provinces could not have survived, unless associated with Serbia.⁷²

The document known as the Niš Declaration was officially proclaimed by the Serbian Parliament as the country's war aims on 7 December 1914, and it clearly stated that Serbia wanted to liberate and unite all the Yugoslavs into a single state. Issuing a declaration which overtly championed the Yugoslav idea was a means for Pašić to undermine the Habsburg Yugoslavs' loyalty to the Empire, and to assume control over the process of unification by securing exclusive right for Serbia to represent the Southern Slavs. The declaration also

⁷¹ Jelavich 1990, *op. cit.*, 31; MacMillan 2002, *op. cit.*, 122; Pavlowitch 1971, *op. cit.*, 99.

⁷² Banac, Ivo: *The National Question in Yugoslavia*. Ithaca and London: Cornell University Press, 1984, 117.

enabled the Serbian Cabinet to claim as many Habsburg Yugoslav lands as possible primarily to fulfil pan-Serb aspirations.⁷³

With the arrival of Habsburg Yugoslav exiles in Great Britain, the idea of national self-determination along with the notion of a united Yugoslav state paved their ways both to the Foreign Office and public opinion under the assistance and patronage of Henry Wickham Steed and Robert William Seton-Watson. Despite the question of a Yugoslav state being briefly raised in the first years of the Great War, the Entente attitude towards the Great Power status and necessity for the Habsburg Monarchy remained unchanged.⁷⁴ While a few officials in the British and French Foreign Office sympathized with the nationality principle,⁷⁵ official commitment to national self-determination would have considerably limited the possibility of war-time diplomacy⁷⁶ which aimed to defeat German aggression and not to reorganize Central Europe. As a result, the strategic interests and necessities of the war took priority over the case of Yugoslav national unification.

The Yugoslav Committee – a London-based⁷⁷ Southern Slav émigré organization headed by Ante Trumbić as its president – was established by a number of Habsburg Yugoslav expatriates with the assistance of the Serbian Cabinet. The majority of its members were Croats who imagined the future common Yugoslav state would be realised based on „an organic union and equal partnership”⁷⁸ among the Croats, Slovenes

⁷³ Bataković, Dušan T.: Szerbia az első világháborúban. In: Szarka László. (ed.): *Párhuzamos nemzetépítés, konfliktusos együttélés*. Budapest: Országház, 2017, 237; Sotirović, Vladislav B.: The 1917 Corfu Declaration. In: *The South Slavic Journal* 33(1-2), 13; Pavlowitch, Kosta Stevan: The First World War and the Unification of Yugoslavia. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003, 27; Lederer, Ivo J.: *Yugoslavia at the Paris Peace Conference: A Study in Frontiersmaking*. New Haven and London: Yale U P, 1963, 4–5; Pavlowitch 1971, *op. cit.*, 99.

⁷⁴ Hay, William Anthony: A Problem Postponed: Britain and the Future of Austria-Hungary, 1914–18. In: *Diplomacy & Statecraft* 13(3), 59.

⁷⁵ Evans, James: *Great Britain and the Creation of Yugoslavia: Negotiating Balkan Nationality and Identity*. London and New York: Tauris, 2008, 161.

⁷⁶ Calder 1976, *op. cit.*, 28–29.

⁷⁷ The political organization was created in Paris, but immediately moved its headquarters to London (Sotirović 2014, *op. cit.*, 12).

⁷⁸ *Southern Slav Programme*. London: Nisbet, 1915, 4.

and Serbs. Under the patronage of Seton-Watson and Steed, the group lobbied for the recognition of its national programme in Great Britain, and tried to guard the ethno-historic rights of the Southern Slavs for the Eastern Adriatic.⁷⁹ The formation and first public appearance of the Yugoslav Committee was connected with the Allied-Italian secret negotiations, when the Yugoslav exiles hastily published a manifesto, the *Southern Slav Programme*, on 12 May 1915 which sought to protect the national interests of Yugoslavs by attempting to influence Allied opinion.⁸⁰ Once it was revealed that the Treaty of London had already been concluded, the Yugoslav Committee was forced to press its claims on the Adriatic by launching a propaganda campaign⁸¹ „for the purpose of imparting information”⁸² on the Yugoslav’s cause. The organization published the *Southern Slav Bulletin*, a serialized pamphlet to educate the public and decision-makers about the Southern Slavs. In essence, it provided thorough political, historical, geographic, economic and ethnographic background on the Southern Slav lands. Each of the six pamphlets published was composed to expand knowledge about a specific theme.

Both the *Southern Slav Programme* and the *Southern Slav Bulletin* aimed to convince officials of the Entente Powers that: the Yugoslav Committee had a legitimate right to represent and speak on behalf of the Habsburg Yugoslavs; the Yugoslav idea had been the prevailing national idea of the Southern Slavs; and, only a unified and ethnically compact Yugoslav state – and not an enlarged Serbia and Italy – could be an effective barrier to German expansion.

In reality, with the outbreak of the Great War three options emerged for the Croats and Slovenes regarding their future: autonomy within the Habsburg Monarchy; formation of independent states; or unification with Serbia.⁸³ All three options had their proponents among

⁷⁹ Sotirović 2014, *op. cit.*, 12.

⁸⁰ *Ibid.* 11.

⁸¹ Lederer 1963, *op. cit.*, 12–13.

⁸² *Southern Slav Bulletin*. London: Nisbet, 1915, 1.

⁸³ Trgovčević 2003, *op. cit.*, 231.

the Habsburg Yugoslav political and intellectual circles. Emperor Charles's accession to the throne in late 1916 provided an opportunity for the Habsburg Yugoslavs to renew their request for an autonomous Yugoslav federal unit.⁸⁴ Corresponding with the words and whispers in the Empire that the new Emperor intended to proclaim the trialist rearrangement of the Habsburg Empire upon his coronation, the Yugoslav Club – a newly established club party consisting of the Southern Slav representatives of Austrian Yugoslav territories – appealed to the sovereign in a manifesto known as the May Declaration, which called for the „unification of all the lands in the Monarchy inhabited by the Slovenes, Croats and Serbs”.⁸⁵ In practice the May Declaration – issued for the reopening of the Vienna Reichstag on 30 May 1917 – propagated Trialism based on the Croat state right, the nationality principle⁸⁶ and national equality, the latter guaranteeing recognition of Serbs as a separate constituent nation in Croatia-Slavonia.⁸⁷ At this stage of the Great War the radical visions of the Yugoslav expatriates and their patrons in Entente countries – entailing the dissolution of the Habsburg Empire, and the Yugoslav unification with then non-existing free Serbia – were not echoed among their Habsburg Yugoslav kinsmen⁸⁸ who still wished to preserve the Habsburg Empire in 1917.

With the outcome of the war hanging in the air, the Yugoslav deputies in the Vienna Reichsrat and the Zagreb Sabor played a two-sided game by letting their loyalty be bargained. To maximize the possible political gains and to put pressure on the Habsburgs, they maintained contacts with the Yugoslav Committee, while they were also eager to profess their loyalty to Charles, the new Emperor-King, with the hope that the sovereign would proclaim a trialist rearrangement. For this reason, on

⁸⁴ Pavlowitch 2003, *op. cit.*, 32.

⁸⁵ „[...] ujedinjenje svih zemalja u monarhiji, u kojima žive Slovenci, Hrvati i Srbi [...]” Qtd. Ferdo Šišić (ed.): *Dokumenti o postanku Kraljevine Srba, Hrvata i Slovenaca, 1914–1918*. Zagreb: Matica Hrvatske, 1920, 94.

⁸⁶ Ćirković 2004, *op. cit.*, 250.

⁸⁷ Banac 1984, *op. cit.*, 125.

⁸⁸ Mason, John W.: *The Dissolution of the Austro-Hungarian Empire, 1867–1918*. London and New York: Longman, 1997, 85.

30 May 1917 thirty-three Yugoslav deputies in the Reichsrat formed the Yugoslav Club under the Slovene leadership of Anton Korošec who read out the May Declaration, a brief but far-reaching manifesto asking Charles for the unification of Habsburg Yugoslav territories in a third sub-state.⁸⁹

Undoubtedly, the declaration movement's agenda clashed with the aims of both the Serbian Cabinet and the Yugoslav Committee, as the document requested a dynastic solution for the Southern Slav question. Moreover, the manifesto did not mention union with Serbia but explicitly stated that the Habsburg Yugoslavs had wished to remain under the aegis of the Habsburg dynasty.⁹⁰ In effect, the May Declaration was a result of a compromise between the Croatian Party of Right and the Yugoslav deputies in the Reichsrat, merging the Croatian aspirations with the civic nationalism of Slovenes and Dalmatian Yugoslavs to claim Trialism jointly on the basis of Croatian historic state right. The positive response to the May Declaration amongst the Habsburg Yugoslav public encouraged the Yugoslav parties – with the exception the Croato-Serbian Coalition⁹¹ – into a loose but broad cooperation,⁹² which would prove significant during the disintegration of the Habsburg Empire in the autumn of 1918.

Realising that it had been essential to work out his disagreements with the Yugoslav Committee, in early May 1917 Pašić invited Ante Trumbić and other members of the organization⁹³ to Corfu – where

⁸⁹ Janković 1973, *op. cit.*, 124; Lederer 1963, *op. cit.*, 25.

⁹⁰ Pavlowitch 1971, *op. cit.*, 99, 106; Pavlowitch, Kosta Stevan: *Serbia: The History Behind the Name*. London: Hurst, 2002, 51; Tanner 1997, *op. cit.*, 117.

⁹¹ Under the leadership of the Serbian Pribičević, the CSC still enjoyed patronage of Hungary as the new *Magyarons*. At the same time, Pribičević did not wish to collide with Pašić, thus the CSC would remain uninvolved in the declaration movement until the collapse of the Monarchy (Mitrović, Andrej: *Serbia's Great War, 1914–1918*. London: Hurst, 2007, 301).

⁹² Mitrović 2007, *op. cit.*, 299–300, 302–303.

⁹³ To neutralize the overrepresented Dalmatian Croats, Pašić requested the Committee's delegation to be composed of a Croatian member from Dalmatia and Croatia-Slavonia, a Slovenian and a Bosnian Serb representative. The delegation which left for Corfu constituted of Ante Trumbić, Hinko Hinković, Bogumil Vošnjak and Dušan Vasiljević, while the Serbian opposition parties were also given the

the Serbian government-in-exile had been operating ever since the occupation of Serbia – with the intention of preparing and propagating a joint political programme for the Western Allied Powers. As the political activity of the Habsburg Yugoslavs had proven that they could speak for themselves, and given the ineffective nature of the Yugoslav Committee, Trumbić was more than ready to accept the invitation as the conference provided an opportunity for the organization to become visible and active again in Southern Slav matters.⁹⁴

Profound disagreements on the internal structure of the future state considerably complicated the negotiations. Nevertheless, following a two-week long discussion the inter-Yugoslav conference eventually released the so-called Corfu Declaration on 20 June 1917. The Declaration answered most of the major questions about unification, and clarified in its preamble that the Serbs and the Habsburg Yugoslavs constituted a single nation which proclaimed its determination to form a common state under the rule of the Karađorđević dynasty, by exercising its right of national self-determination. Besides these two fundamental principles, the document emphasized that Yugoslavia would be realized through the unification of the Habsburg Yugoslav territories with Serbia, and not by their annexation by Serbia.⁹⁵ As the name „Yugoslavia” was regarded a pan-Croat „contrivance” aimed against the Serbian identity and statehood, the Serbian politicians advocated for „the nation with three names” formula,⁹⁶ insisting on using the term „Serb, Croat, and Slovene” in the text as the acceptable alternative. As this terminology included the „Serbian” name, yet indicated that the new state would be different from the mere extension of Serbia,⁹⁷ the wording satisfied both Pašić and Trumbić.

The Corfu Declaration was a compromise made between Pašić and Trumbić under the pressure of many circumstances. It did not

opportunity to represent themselves with a delegate during the conference (Janković 1973, *op. cit.*, 189, 192, 200, 202).

⁹⁴ Evans 2008, *op. cit.*, 279; Lederer 1963, *op. cit.*, 25.

⁹⁵ Janković 1973, *op. cit.*, 196–197, 228; Sotirović 2014, *op. cit.*, 31.

⁹⁶ Mitrović 2007, *op. cit.*, 280; Sotirović 2014, *op. cit.*, 25.

⁹⁷ Zlatar 1997, *op. cit.*, 396.

eliminate the federalist-centralist dispute between the respective parties, but postponed a final decision to the future.⁹⁸ While the Yugoslav exiles treated the Declaration as an official agreement framing the constitutional foundations of the future state, the Serbian Cabinet regarded the document as a mere declaration on Yugoslav solidarity by expressing the principles of cooperation. Subsequently, proclaiming that the Habsburg Yugoslavs would unite with Serbia under the Serbian Crown, the Corfu Declaration was Pašić's answer for the May Declaration and any other concepts which envisioned that the Habsburg Slavs could have remained within the Habsburg Empire. As Pašić had never officially acknowledged the Yugoslav Committee as the representatives of the Habsburg Yugoslavs, or as the equal partner of the Serbian Cabinet, in his reading the Declaration was by no means a legal agreement binding Serbia to share the leadership in the creation of Yugoslavia.⁹⁹

In reality, the Corfu agreement was the only lasting achievement of the Yugoslav Committee, whose members had become more divided on political visions than ever before by 1917 due to the surfacing of regional and ethnic differences.¹⁰⁰ Furthermore, the Yugoslav Committee could neither attract the Habsburg Yugoslavs nor the Allied governments, and indeed, it had no legal status or mandate to act on behalf of the Yugoslavs of the Dual Monarchy for which the May Declaration had been an apparent proof.¹⁰¹

Overall, Yugoslav unification had remained unattainable even by early 1918, as the official war aims of Great Britain and the United States did not include the elimination of Austria-Hungary.¹⁰² In the

⁹⁸ Janković 1973, *op. cit.*, 256–257; Lederer 1963, *op. cit.*, 25–26.

⁹⁹ Bataković 2017, *op. cit.*, 247–248; Lederer 1963, *op. cit.*, 5; Sotirović 2014, *op. cit.*, 29.

¹⁰⁰ Janković 1973, *op. cit.*, 131. Not only did Dalmatian Croats outnumber others, but, indeed, they proved to be the most active members of the organization. As Valjević, one of the Bosnian Serb members of the Committee complained to Jovanović, the Serbian Minister in London in February 1917: "The Dalmatians have their men in Paris, London, Geneva, and they gradually overtake all initiations" ("*Dalmatinci imaju [...] čovjeka u Parizu, Londonu, Ženevi i da polako preuzmu sve poslove*" qtd. *ibid*, 131–132).

¹⁰¹ Pavlowitch 1971, *op. cit.*, 99.

¹⁰² Mitrović 2007, *op. cit.*, 279–280.

belief that the aspirations of Habsburg nationalities could have been satisfied within a federalized Habsburg Monarchy,¹⁰³ the dissolution of the Empire had been altogether dismissed. Consequently, the Western Allies proposed to keep the integrity of the Empire almost intact, albeit that in the course of secret peace talks a number of plans were outlined for the conversion of the Danubian Monarchy into a federal state of five units, each being granted the same rights that Austria and Hungary had so far enjoyed. It was believed that such a federalised Empire would follow an anti-German foreign policy and could fulfil its role in the European balance of power. The secret peace talks with the Monarchy revealed the Allies' willingness to accept the Empire as a great power in the post-bellum period, as a counterpoise to German economic and military expansion.¹⁰⁴

Realising that the defeat of Italy would have meant the defeat of Yugoslav aspirations as well,¹⁰⁵ an informal and a preliminary meeting – hosted at Henry Wickham Steed's private house in London – prepared the ground for a joint Italian-Yugoslav agreement subsequently known as the Pact of Rome and concluded at the Congress of Oppressed Nationalities between 8 and 10 April 1918.¹⁰⁶ Although the conference did not possess any official diplomatic status, it managed to bind together the Habsburg nationalities under the patronage of the Italian Cabinet, to realise their liberation through a joint struggle against a common oppressor. A joint resolution was passed emphasising that as the Habsburg Monarchy had transformed into „the instrument of

¹⁰³ Mason 1997, *op. cit.*, 81.

¹⁰⁴ Arday Lajos: *Térkép, csata után*. Budapest: Magvető, 1990, 12, 15; Arday Lajos: Economics Versus Nationality. British Plans for Re-Shaping East-Central Europe in 1917–1919. In: Kapronczay Károly (ed.): *Az Egyesült Királyság és Magyarország*. Budapest: Mundus, 2005, 466; Hanak, Harry: The Government, the Foreign Office and Austria-Hungary, 1914–1918. In *The Slavonic Review* 47(108), 184; Mitrović, Andrej: The Yugoslav Question, the First World War and the Peace Conference, 1914–20. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003, 48–49.

¹⁰⁵ Masaryk 1969, *op. cit.*, 227.

¹⁰⁶ Lederer 1963, *op. cit.*, 28–29.

Germanic domination,”¹⁰⁷ the nationalities of the Empire joined forces to achieve full political and economic independence with the creation of their own states.¹⁰⁸

Overall, the declaration marked a resting point in the Italian-Yugoslav hostilities, and it awarded Italy with the moral obligation to patronise the Habsburg nationalities’ aspirations. In effect, the conference coincided with the shift in British policy concerning the fate of the Habsburg Empire, and would be instrumental in a five-month long anti-Habsburg propaganda campaign targeting the Habsburg army divisions on the Italian Front.¹⁰⁹ However, as the end of the Great War approached, it would be revealed that Italy was not only against any forms of Yugoslav unification but intended to extend its territorial gains beyond the lines of the Treaty of London.

The last year of the Great War created the conditions which eventually enabled the formation of a united Southern Slav state. Among these conditions the collapse of the Habsburg Empire¹¹⁰

¹⁰⁷ Qtd. Albrecht-Carrié, René: *Italy at the Peace Conference*. New York: Columbia U P, 1938, 347.

¹⁰⁸ Lederer 1963, *op. cit.*, 30; Masaryk 1969, *op. cit.*, 226–227.

¹⁰⁹ Cornwall, Mark: *The Undermining of Austria-Hungary: The Battle of Hearts and Minds*. London: Macmillan, 2000, 178; Seton-Watson, Christopher: *Introduction to R. W. Seton-Watson and His Relations with the Czechs and Slovaks*. vol 1. n/a: Matica Slovenska, 1995, 28; Jeszenszky Géza: A történelmi Magyarország sírásója: H. W. Steed. In: Horváth Jenő et al. (eds.): *Emlékirat és történelem*. Budapest: Magyar Történelmi Társulat, 2012, 32.

¹¹⁰ By 1918, the failure of Emperor Charles and the Austro-Hungarian political elite to satisfy the aspirations of their nationalities by implementing the necessary political and constitutional reforms, along with the social unrest, economic hardship, strikes, desertions, military mutinies and the radicalization of the national movements led to the organic disintegration and the eventual dissolution of the Danubian Empire without any direct involvement on behalf of the Allied Powers. The sudden collapse of Austria-Hungary stimulated a race among the Southern Slavs, Romania and Italy for the division of the Empire in autumn 1918. As all sides strived to realize their most excessive aspirations, the Paris Peace Conference – to be convened in January 1919 – would attest conflicting territorial claims placed on the lands inhabited by Southern Slavs. (Živojinović, Dragan R.: *America, Italy and the Birth of Yugoslavia, 1917–1919*. New York: Boulder, 1972, 150; Beretzky, Ágnes: British Confederation Plans concerning Central and Eastern Europe, 1939–1945. In: Nagypál Szabolcs - Šajda, Peter (eds.): *A Pentatonic Landscape Central Europe, Ecology, Ecumenism*. Budapest: BGÖI & WSCF-CESR, 2002, 35; Beretzky Ágnes: *Scotus Viator és Macartney Elemér: Magyarország-kép*

and the Allied victory were the most significant components which paved the way for the Act of Union between the Habsburg Yugoslav territories and Serbia. However, Allied recognition for the united Southern Slav state would be further complicated by the establishment of the National Council in Zagreb. The unbridgeable discord between Pašić and Trumbić, and the postponement of Allied acknowledgment, triggered the Habsburg Yugoslavs to act independently of the Serbian Cabinet and Yugoslav Committee.¹¹¹ As a result, the delegates of the Croat, Serb and Slovene parties in the disintegrating Habsburg Empire formed their own joint representative body, the National Council of the Slovenes, Croats, and Serbs in Zagreb. The leaders of the Council – Anton Korošec, Ante Pavelić¹¹² and Svetozar Pribičević – terminated all links with Budapest and Vienna, and declared the independence of the lands inhabited by the Habsburg Yugoslavs on 29 October 1918. Filling the gap of power with this act, the interim State of Slovenes, Croats, and Serbs was created, and its national government entrusted with the task of orchestrating a union with Montenegro and Serbia.¹¹³

The formation of the National Council in Zagreb had transpired in the midst of armistice negotiations, the terms of which outlined the Allied occupation zones in the Southern territories of the dissolving Habsburg Empire. Accepting the Italian position, the Supreme War Council regarded the lands, over which the National Council had claimed sovereignty, as enemy territories to be occupied by one of the Entente Powers according to their mandates. Thus, the State

változó előjelekkel, 1905–1945. Budapest: Akadémia, 2005, 35; Lederer 1963, *op. cit.*, 71.)

¹¹¹ In effect, this development had been in the making ever since the May Declaration of 1917. In the summer of 1918, a number of anti-Habsburg demonstrations took place, and the Croato-Serbian Coalition's popularity increased steadily under the leadership of Pribičević. With the gradual disintegration of the Empire, the CSC started to propagated openly the idea of a common Yugoslav state which had a favourable reception in Dalmatia and among some of the urban intellectuals of Croatia-Slavonia (Lederer 1963, *op. cit.*, 43–44).

¹¹² Not to be confused with the Croatian Fascist Ustaša leader of the same name.

¹¹³ Becherelli, Alberto: The National Question in the Kingdom of Serbs, Croats and Slovenes: The Croatian Case. In: *Mediterranean Journal of Social Sciences* 2(3), 266; Šepić, Dragovan: The Question of Yugoslav Union in 1918. In: *Journal of Contemporary History* 3(4), 37; Banac 1984, *op. cit.*, 127–128; Djokić 2010, *op. cit.*, 53.

of the Slovenes, Croats and Serbs could not be acknowledged as a belligerent Allied state; instead, Great Britain and France expected a joint Serbian-Habsburg Yugoslav government to be formed. However, contrary to their expectation, 1 December 1918 witnessed the sudden and unexpected proclamation of the Yugoslav union, creating a state which lacked an established legal framework to operate and raising the question of whether an entirely new state had emerged or a political-constitutional extension of Serbia had transpired.¹¹⁴

The imperfect territorial solutions resulted in the creation of a multi-ethnic state with twelve million inhabitants among whom circa 13% did not belong to any Southern Slav ethnicities. No resolution had been passed on the future of Fiume, while 700,000 Southern Slavs remained outside the unified state, stimulating discontent among the Croatian and Slovene citizens that their kinsmen had come under Italian rule. Moreover, the manner and implementation of how Montenegro had been unified with Serbia resembled a „Balkan Anschluss“ or an involuntary surrender of statehood and independence. The annexation of the small Balkan state violated both international law – paradoxically allowing a victorious Allied state to lose its independence – and the will of the Montenegrin people who strived for the unification with the Southern Slav world in a federal state. Not only would Montenegro’s political and ecclesiastical absorption into Serbia upset the balance in the Yugoslav Kingdom in favour of the Serbs, but it would also feed Montenegrin national pride and disillusion in the first common state of the Southern Slavs.¹¹⁵

¹¹⁴ Djokić 2010, *op. cit.*, 62; Mitrović 2007, *op. cit.*, 322; Pavlowitch 1971, *op. cit.*, 52; Šepić 1968, *op. cit.*, 29, 37.

¹¹⁵ Evans 2008, *op. cit.*, 121; Morrison, Kenneth: Nationalism, Identity and Statehood in Post-Yugoslav Montenegro. In: *Slavic Review* 78(2), 43, 46; Pavlović, Srdja: *Balkan Anschluss: The Annexation of Montenegro and the Creation of the Common South Slavic State*. West Lafayette: Purdue U P, 2008, 1, 23–24, 145.

4 Conclusions

With the conclusion of the Treaty of Rapallo (1920), the Kingdom of Serbs, Croats and Slovenes received its final borders. Despite the majority of the Yugoslav claims being fulfilled, the first common state of Southern Slavs was an ambiguous achievement characterized by the uneasy union of peoples who had been divided from each other by state or administrative frontiers for centuries, and hardly had anything in common other than the shared language.¹¹⁶ Besides the questionable manner of the proclamation of Montenegrin unification, the united Southern Slavs was the outcome of the voluntary union of the Yugoslav lands with miscellaneous cultural and political traditions. Combining diverging traditions, faiths and historical experience, Yugoslavia resembled the old multi-ethnic empires of Europe with the possibility of becoming a melting pot or the source of increasing disagreements.¹¹⁷ In the long run it would be revealed that a common language was not sufficient to make Yugoslavia a well-functioning state based on popular democracy.¹¹⁸

Altogether, the question of borders and the multi-ethnic nature of the new state would prove to be a considerable challenge for the Kingdom of Serbs, Croats and Slovenes during the interwar period in terms of foreign policy and security,¹¹⁹ which would undermine the integrity of the Yugoslav state. Although the ideals of Southern Slav unification pursued by the Yugoslav idea and championed by its devout British proponents had been eventually realised at the end of the Great War,¹²⁰ the compromises and the constitutional foundations, which the first state of the Yugoslavs was based on, would set in

¹¹⁶ MacMillan 2002, *op. cit.*, 126, 133.

¹¹⁷ Motta, Giuseppe: The Birth of Yugoslavia: A Vision from Italy, 1918-20. In: Srđan Rudić - Antonello Biagini (eds.): *Serbian-Italian Relations: History and Modern Times*. Požega: The Institute of History Belgrade and Sapienza University of Rome, 2015, 142.

¹¹⁸ MacMillan 2002, *op. cit.*, 133

¹¹⁹ Albrecht-Carrié 1938, *op. cit.*, 308; Lederer 1963, *op. cit.*, 117; Mitrović 2007, *op. cit.*, 325-326.

¹²⁰ Šepić 1968, *op. cit.*, 43.

motion ethnic rivalries transpiring into centrist, federalist and secessionist movements. The domestic and foreign policy issues of interwar Yugoslavia resembled the ambiguities and contradictions of the European peace settlement, which instead of establishing a lasting peace fostered enduring hostilities among the European nations. The experience of the first Southern Slav state, together with the legacy of the Second World War, would survive into the post-Cold War era.

The outbreak and the developments of the Great War eventually created the conditions for Yugoslav unification. Nonetheless, the Croatian proponents of Yugoslavism failed to secure any guarantees to prevent the centuries-old Croatian statehood from submerging and disappearing in the unified Southern Slav Kingdom dominated by the Serbian political elite. Bribing the Yugoslav Muslim, Albanian and Turkish deputies with the prospect of political concessions, Pašić managed to secure a majority in the Constituent Assembly to adopt a highly centralising constitution known as the Vidovdan Constitution on 28 June 1921. As a result, based on the dualist experience of federation, the Croatian leaders would persist in practicing a „cunning of bargaining” in the interwar period, to establish an enlarged and strengthened Croatia to counter-balance Serbian political dominance. However, their political aspirations and exceptionalism, relying on and overemphasising Croatian historic rights, fostered disunity, nationalism and separatism among the rest of the Southern Slavs as well.¹²¹

In effect, the discord and disputes among the Yugoslav factions during the Great War transpired into political clashes in interwar Yugoslavia. This confirmed how difficult it had been to resolve the political disagreements originating from the diverging cultural experiences and centuries-long political divisions of the Yugoslav peoples.¹²² Eventually, the history of Yugoslavia proved to be that of

¹²¹ Morrison 2009, *op. cit.*, 49; Pavlowitch 1971, *op. cit.*, 57–58, 109–110.

¹²² Black, Jeremy: *The Great War and the Making of the Modern World*. New York: Continuum, 2011, 243; Mitrović 2007, *op. cit.*, 322, 326. Overall, the uncertainties of the Yugoslav cause, and the Allies’ willingness to preserve the Habsburg Empire and to sacrifice Southern Slav territories contributed to friction and factionalism among the Yugoslavs (Šepić 1968, *op. cit.*, 33).

a long and enduring disintegration of a state whose citizens were forced into a common state twice by overwhelmingly international developments and external circumstances. Rather than solving the Southern Slav Question, the dismemberment of the Habsburg Empire and the peace treaties concluding the First World War multiplied the issues of the Yugoslavs, which had still not been entirely resolved at the dawn of the 21th century.

Bibliography

Contemporary books, pamphlets, memoirs, newspapers and collected documents

- Masaryk, Thomas Garrigue: *The Making of a State*. Trans. Henry Wickham Steed. New York: Howard Fertig, 1969.
- Seton-Watson, Robert William: *Absolutism in Croatia*. London: Constable, 1912.
- Šišić, Ferdo (ed.): *Dokumenti o postanku Kraljevine Srba, Hrvata i Slovenaca, 1914–1918*. Zagreb: Matica Hrvatske, 1920.
- Southern Slav Bulletin*. London: Nisbet, 1915.
- Southern Slav Programme*. London: Nisbet, 1915.
- Steed, Henry Wickham: *The Hapsburg Monarchy*. 4th edition with a new preface. London: Constable, 1919.
- Trumbić, Ante: *n/a*. In *Narodni List*, 11 March 1905.

Books

- Albrecht-Carrié, René: *Italy at the Peace Conference*. New York: Columbia U P, 1938.
- Antić, Čedomir: *Ralph Paget: A Diplomat in Serbia*. Belgrade: SASA, 2006.
- Arday Lajos: *Térkép, csata után*. Budapest: Magvető, 1990.
- Banac, Ivo: *The National Question in Yugoslavia*. Ithaca and London: Cornell University Press, 1984.
- Beretzky Ágnes: *Scotus Viator és Macartney Elemér: Magyarország-kép változó előjelekkel (1905–1945)*. Budapest: Akadémia, 2005.
- Black, Jeremy: *The Great War and the Making of the Modern World*. New York: Continuum, 2011.
- Calder, Kenneth J.: *Britain and the Origins of the New Europe, 1914–1918*. Cambridge: Cambridge U P, 1976.
- Ćirković, Sima M.: *The Serbs*. Trans. Vuk Tošić. Malden: Blackwell, 2004.
- Cohen, Lenard J.: *Broken Bonds: Yugoslavia's Disintegration and Balkan Politics in Transition*. Boulder and Oxford: Westview, 1995.

- Cornwall, Mark: *The Undermining of Austria–Hungary: The Battle of Hearts and Minds*. London: Macmillan, 2000.
- Djokić, Dejan: *Nikola Pašić and Ante Trumbić: The Kingdom of Serbs, Croats and Slovenes*. London: Haus, 2010.
- Dragnich, Alex N: *Serbia and Yugoslavia*. New York: Columbia U P, 1998.
- Evans, James: *Great Britain and the Creation of Yugoslavia: Negotiating Balkan Nationality and Identity*. London and New York: Tauris, 2008.
- Ganza-Aras, Tereza: *Politika „Novog kursa” dalmatinskih pravaša oko Supila i Trumbića*. Split: Matica Hrvatska, 1992.
- Goldstein, Ivo: *Croatia: A History*. Trans. Nikolina Jovanović. Montreal: McGill–Queen’s U P, 1999.
- Jelavich, Charles: *South Slav Nationalism. Textbooks and Yugoslav Union before 1914*. Columbus: Ohio State University Press, 1990.
- Krestić, Vasilije D.: *History of the Serbs in Croatia and Slavonia, 1848–1914*. Belgrade: BIGZ, 1997.
- Lampe, John R.: *Balkans into Southeastern Europe*. London: Palgrave Macmillan, 2006.
- Lederer, Ivo J.: *Yugoslavia at the Paris Peace Conference: A Study in Frontiermaking*. New Haven and London: Yale U P, 1963.
- MacMillan, Margaret.: *Peacemakers: The Paris Conference of 1919 and its Attempt to End War*. London: John Murray, 2002.
- Mason, John W.: *The Dissolution of the Austro-Hungarian Empire, 1867–1918*. London and New York: Longman, 1997.
- Miller, Nicholas John: *Between Nation and State: Serbian Politics in Croatia before the First World War*. Pittsburgh: University of Pittsburgh Press, 1997.
- Mitrović, Andrej: *Serbia’s Great War, 1914–1918*. London: Hurst, 2007.
- Pavlović, Srdja: *Balkan Anschluss: The Annexation of Montenegro and the Creation of the Common South Slavic State*. West Lafayette: Purdue U P, 2008.
- Pavlowitch, Kosta Stevan: *Serbia: The History Behind the Name*. London: Hurst, 2002.
- Pavlowitch, Kosta Stevan: *Yugoslavia*. London: Ernest Benn, 1971.
- Petrinović, Ivo: *Politička misao Frana Supila*. Split: Književni Krug, 1988.
- Seton-Watson, Hugh and Christopher: *The Making of New Europe. R. W. Seton-Watson and the Last Years of Austria-Hungary*. London: Methuen, 1981.
- Tanner, Marcus: *Croatia. A Nation Forged in War*. New Haven: Yale University Press, 1997.

Woodhouse, Edward James: *Italy and the Yugoslavs*. Boston: Badger, 1920.

Živojinović, Dragan R.: *America, Italy and the Birth of Yugoslavia (1917–1919)*. New York: Boulder, 1972.

Studies

Arday Lajos: Economics Versus Nationality. British Plans for Re-Shaping East-Central Europe in 1917–1919. In: Kapronczay Károly (ed.): *Az Egyesült Királyság és Magyarország*. Budapest: Mundus, 2005.

Banac, Ivo: Croat-Magyar Relations, 1904–1914: A New Jelačić or the “New Course”? In: *Slovene Studies* 9(1–2), 43–48.

Bataković, Dušan T.: Szerbia az első világháborúban. In: Szarka László (ed.): *Párhuzamos nemzetépítés, konfliktusos együttélés*. Budapest: Országház, 2017.

Becherelli, Alberto: The National Question in the Kingdom of Serbs, Croats and Slovenes: The Croatian Case. In *Mediterranean Journal of Social Sciences* 2(3), 265–270.

Beretzky, Ágnes: British Confederation Plans concerning Central and Eastern Europe (1939–1945). In: Nagypál Szabolcs - Šajda, Peter (eds.): *A Pentatonic Landscape Central Europe, Ecology, Ecumenism*. Budapest: BGÖI & WSCF-CESR, 2002.

Cieger András: Horvát képviselők a magyar országgyűlésben (1868–1918). In: Fodor Pál et al. (eds.): *A horvát-magyar együttélés fordulópontjai*. Budapest: MTA Bölcsészettudományi Kutatóközpont, 2015.

Djokić, Dejan: Yugoslavism: Histories, Myths, Concepts. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003.

Gross, Mirjana: Social Structure and National Movements among the Yugoslav Peoples on the Eve of the First World War. In: *Slavic Review. American Quarterly of Soviet and East European Studies* 36(4).

Hanak, Harry: The Government, the Foreign Office and Austria-Hungary, 1914–1918. In: *The Slavonic Review* 47(108).

Haslinger, Peter: Austria-Hungary. In: *Empires at War, 1911–1923*. Gerwarth, Robert - Manela, Erez (eds.): *Empires at War, 1911–1923*. Oxford: Oxford UP, 2014.

Hay, William Anthony: A Problem Postponed: Britain and the Future of Austria-Hungary, 1914–18. In: *Diplomacy & Statecraft* 13(3), 57–80.

Janković, Dragoslav: Srbija i stvaranje Jugoslavije. In: Acković, Aleksandar (ed.): *Politički život Jugoslavije, 1914–1945*. Belgrade: Radio-Beograd, 1973.

- Jeszenszky Géza: A történelmi Magyarország sírásója: H. W. Steed. In: Horváth Jenő et al. (eds.): *Emlékirat és történelem*. Budapest: Magyar Történelmi Társulat, 2012.
- Jeszenszky Géza: Közép-Európa veszte: az I. világháború. In: *Magyar Szemle* 23(9–10), 36–52.
- Katus László: Horvátok. In: Ács Zoltán (ed.): *Együtt élő népek a Kárpát-medencében*. Budapest: Auktor, 1994.
- Katus László - Nagy Mariann (eds.): *Sokszólamú történelem: válogatott tanulmányok és cikkek*. Pécs: PTE BTK Történelem Tanszékcsoport, 2008.
- Matković, Stjepan: A horvát politika evolúciója az első világháború előestéjén. In: Fodor Pál et. al. (eds.): *A horvát–Magyar együttélés fordulópontjai*. Budapest: MTA BTK TTI, Horvát Történettudományi Intézet, 2015.
- Mitrović, Andrej: The Yugoslav Question, the First World War and the Peace Conference, 1914–20. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003.
- Morrison, Kenneth: Nationalism, Identity and Statehood in Post-Yugoslav Montenegro. In: *Slavic Review* 78(2), 543–544.
- Motta, Giuseppe: The Birth of Yugoslavia: A Vision from Italy, 1918–20. In: Rudić, Srđan - Biagini, Antonello (eds.): *Serbian-Italian Relations: History and Modern Times*. Požega: The Institute of History Belgrade and Sapienza University of Rome, 2015.
- Okey, Robin: The *Neue Preie Presse* and the South Slavs of the Habsburg Monarchy, 1867–1914. In: *The Slavonic and East European Review* 85(1), 79–104.
- Pavlowitch, Kosta Stevan: The First World War and the Unification of Yugoslavia. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003.
- Péter László: The Army Question in Hungarian Politics, 1867–1918. In: *Central Europe* 4(2), 83–110.
- Rusinow, Dennison: The Yugoslav Idea before Yugoslavia. In: Djokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003.
- Šepić, Dragovan: The Question of Yugoslav Union in 1918. In: *Journal of Contemporary History* 3(4), 29–43.
- Seton-Watson, Christopher: *Introduction to R. W. Seton-Watson and His Relations with the Czechs and Slovaks*. vol 1. n/a: Matica Slovenska, 1995.
- Sokcsévi Dénés: A fiumei rezolúció és az 1905 és 1907 közötti horvát–magyar közélet előkészítése a horvát sajtóban. In: *Századok* 2005. 3. 751–767.
- Sotirović, Vladislav B.: The 1917 Corfu Declaration. In: *The South Slavic Journal* 33(1–2), 7–35.

- Stone, Norman: Constitutional Crises in Hungary, 1903–1906. In: *The Slavonic and East European Review* 45(104), 163–182.
- Suppan, Arnold: Masaryk and the Trials for High Treason against South Slavs in 1909. In: Stanley B. Winters (ed.): *T. G. Masaryk (1850–1937)*, vol 1. London: MacMillan, n/a.
- Tihany, Leslie C.: The Austro–Hungarian Compromise, 1867–1918: A Half Century of Diagnosis. In: *Central European History* 2(2), 114–138.
- Trgovčević, Ljubinka: South Slav Intellectuals and the Creation of Yugoslavia. In: Džokić, Dejan (ed.): *Yugoslavism. Histories of a Failed Idea, 1918–1992*. London: Hurst, 2003.
- Zlatar, Zdenko: The Yugoslav Idea and the First Common State of the South Slavs. In: *Nationalities Papers* 25(2).

Chapter III

Lasting Consequences of the Paris Peace Conference

- 1. László Komáromi:** The Question of Territorial Plebiscites after the first World War with Special Regard to Hungary
- 2. István Szabó:** The Impact of Trianon on Public Law Traditions
- 3. Barna Bodó:** Between Yesterday and Tomorrow
 - What Happened to the Memorials in Banat after 1918

THE QUESTION OF TERRITORIAL PLEBISCITES AFTER THE FIRST WORLD WAR WITH SPECIAL REGARD TO HUNGARY

1 Introduction

“No peace can last, or ought to last, which does not recognize and accept the principle that governments derive all their just powers from the consent of the governed, and that no right anywhere exists to hand peoples about from sovereignty to sovereignty as if they were property.”¹

President Woodrow Wilson’s often-cited address of 22 January 1917 to the Senate on the terms of peace in Europe is mostly seen as his first important commitment to the principle of self-determination. Defeated nations repeatedly referred to this idea after the First World War as they hoped to avoid considerable losses of their territory if the principle professed by the president of the most powerful victorious great power were also respected in the peace negotiations. Wilson’s statement was an expression of the old American tradition on the requirement of the “consent of the governed”,² which had already been formulated in the

* Associate Professor, Pázmány Péter Catholic University Budapest, Faculty of Law and Political Science, Department of Legal History, H-1088 Budapest, Szentkirályi utca 28-30, komaromi.laszlo@jak.ppke.hu.

¹ And later on: “[...] I am proposing, as it were, that the nations should with one accord adopt the doctrine of President Monroe as the doctrine of the world: that no nation should seek to extend its polity over any other nation or people, but that every people should be left free to determine its own polity, its own way of development, unhindered, unthreatened, unafraid, the little along with the great and powerful. [...]” Cited after DiNunzio, Mario R. (ed.): *Woodrow Wilson: Essential Writings and Speeches of the Scholar-President*. New York – London: New York University Press. 2006, 394, 396.

² Thürer, Gerhard: *Das Selbstbestimmungsrecht der Völker mit einem Exkurs zur Jurafrage*. Bern: Stämpfli & Cie AG. 1976, 15, 27-28.

Declaration of Independence of 4 July 1776,³ and it was followed by other similar proclamations in 1917 and 1918.⁴ Leading politicians of the Allied Powers declared similar principles before the end of the

³ “[...] We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the Pursuit of Happiness. That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute a new Government, laying its Foundation on such Principles and organizing its Powers in such Form, as to Them shall seem most likely to affect their Safety and Happiness. [...]” Cited after Jayne, Allen: *Jefferson's Declaration of Independence: Origins, Philosophy, and Theology*. Lexington, Kentucky: The University Press of Kentucky. 1998, 175.

⁴ Address to the Congress on 2 April 1917: “[...] We are glad, now that we see the facts with no veil of false pretense about them, to fight thus for the ultimate peace of the world and for the liberation of its peoples, the German peoples included: for the rights of nations great and small and the privilege of men everywhere to choose their way of life and of obedience. The world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty. We must have no selfish ends to serve. We desire no conquest, no dominion. [...]” Hart, Albert Bushnell (ed.): *Selected Addresses and Public Papers of Woodrow Wilson*. Honolulu, Hawaii: University Press of the Pacific. 2002, 195. Address to the Congress on 11 February 1918: “[...] First, that each part of the final settlement must be based upon the essential justice of that particular case and upon such adjustments as are most likely to bring a peace that will be permanent; second, that peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were chattels and pawns in the game, even the great game, now forever discredited, of the balance of power; but that third, every territorial settlement involved in this war must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims amongst rival states; and fourth, that all well-defined national aspirations shall be accorded the utmost satisfaction that can be accorded them without introducing new or perpetuating old elements of discord and antagonism. [...]” Cited after Lansing, Robert: *The Peace Negotiations*. Fairfield, IA: 1st World Library – Literary Society. 2004, 317-318. Wilson's address at Mount Vernon on 4 July 1918: “[...] The settlement of every question, whether of territory, of sovereignty, of economic arrangement, or of political relationship, upon the basis of the free acceptance of that settlement by the people immediately concerned, and not upon the basis of the material interest or advantage of any other nation or people which may desire a different settlement for the sake of its own exterior influence or mastery. [...]” (also known as 2nd point of Wilson's “Four Points”) cited after Wilson, Woodrow: *Address of President Wilson Delivered at Mount Vernon, July 4, 1918*. Washington. 1918, 4-5. (archive.org) Also cited by Mattern, Johannes: *The Employment of the Plebiscite in the Determination of Sovereignty*. Baltimore: The Johns Hopkins Press. 1921, 176-177.

world war⁵ and the European general public was not far from taking for granted that the post-war settlement would be based on basically different doctrines than most treaties of the 19th century signed by the great powers after conflicts of war. Wilson's statements largely contributed to the growing expectations of different nations outside Europe as well, which hoped to be freed from their colonial powers and felt encouraged to launch movements and uprisings to this end.⁶

These utterances, however, even if they became more precise in the course of time, left much room for interpretation. It was not clear what "self-determination", the right of the people to freely "determine their own polity" mean: independence or autonomy. The word "people" could stand both for "state", "nation" and a "part of the nation"; it was also questionable who should be entitled to decide on questions of "self-determination".⁷ Plebiscites emerged as one possible answer: direct popular votes of people concerned in the territories, the status of which gave rise to much controversy. Historical examples to this kind of solution can be traced back as early as the Middle Ages.⁸ In modern times, territorial plebiscites were practiced during the French Revolution, then in the course of the Italian unification process, but the frequency of such popular votes markedly decreased in the late 19th century,⁹ and neither the practice of territorial changes nor the doctrine of public international law was based on the idea that changes of sovereignty should necessarily be preceded by the expression of the consent of people concerned.¹⁰

Nevertheless, the idea was present and first officially formulated in a decree of peace by the meeting of the All-Russian Convention of

⁵ Mattern 1921, *op. cit.* 177-178.

⁶ See e.g. on Egypt, India, China and Korea: Manela, Erez: *The Wilsonian Moment. Self-Determination and the International Origins of Anticolonial Nationalism*. New York: Oxford University Press. 2007.

⁷ Thürer 1976, *op. cit.* 28.

⁸ Mattern 1921, *op. cit.* 28-53.

⁹ Wambaugh, Sarah: *Plebiscites since the World War. With a Collection of Official Documents*. Vol. I. Washington: Carnegie Endowment for International Peace. 1933, 3.

¹⁰ Mattern 1921, *op. cit.* 181-182.

Soviets of Workers', Soldiers', and Peasants' Deputies on 8 November 1917, when this assembly proposed to all belligerent parties to start peace negotiations and demanded an "immediate peace without annexations (i.e., without seizure of foreign territory, without the forcible annexation of foreign nationalities) and without indemnities". By annexation of foreign territory was meant "any addition to a large or powerful State of a small or weak nationality, without definitely, clearly, and voluntarily expressed consent and desire of this nationality". It was also laid down that no nation should be "retained within the frontiers of a certain State by force" and that the status of such nations should be decided by "free voting", by means of plebiscite which should "take place under the condition of the complete removal of the armies of the annexing or the more powerful nation".¹¹ In June 1919, so after the end of the world war, the Allied Powers, although they did not mention explicitly the term "plebiscite", clearly declared themselves again for following Wilson's ideas on national self-determination in post-war settlement and the German Government announced as early as in October 1918 that it accepted the same principles.¹²

2 Plebiscites According to the Peace Treaties

The peace treaties, however, finally did not fulfil the expectations regarding plebiscites. The Treaty of Versailles of June 1919 provided only for five popular votes: three regarding territories on the German-

¹¹ "If any nation whatsoever is retained within the frontiers of a certain State by force, if it is not given the right of free voting in accordance with its desire, regardless of the fact whether such desire was expressed in the press, in people's assemblies, in decisions of political parties, or rebellions and insurrections against national oppression, such plebiscite to take place under the condition of the complete removal of the armies of the annexing or the more powerful nation; if the weaker nation is not given the opportunity to decide the question of the forms of its national existence, then its adjoining is an annexation, that is, seizure – violence". Cumming, Caroline King – Pettit, Walter William (eds): *Russian-American Relations, March, 1917 – March, 1920. Documents and Papers*. New York: Harcourt, Brace and Howe. 1920, 41-42. Also referred to by Wambaugh 1933, *op. cit.* 6.

¹² Wambaugh 1933, *op. cit.* 12.

Polish border, one for the border between Germany and Denmark and one for the Saar Basin between Germany and France. In addition to them, “unilateral consultations” were held concerning the German-Belgian border, too, in the districts of Eupen and Malmédy. The Treaty of Saint-Germain between the Allies and the Republic of German-Austria of September 1919 envisaged only one plebiscite in Carinthia.

As for the German-Danish border, two zones of North Schleswig, which had been debated between Denmark and Prussia since 1848, were subject to referendum at the request of Denmark. These territories were detached from Denmark in the Second Schleswig War in 1864 and put under joint control of Prussia and Austria. The Austro-Prussian War of 1866, however, put an end to the common administration and the Peace of Prague in 1866 provided for a plebiscite to be held within six years on the status of North Schleswig. Nevertheless, Prussia did not perform its duty to organise the vote. The request of Denmark after the First World War can be regarded as a result of these preceding events. The votes were held in February and March 1920, and, based on their outcome, the Northern zone became a part of Denmark, the Southern zone remained a part of Germany.¹³

As regards the German-Polish border, the territorial Commission of Polish Affairs proposed that a “Polish corridor” be established to the Baltic Sea. According to this, West Prussia, the city of Danzig, the greater part of Poznań and Upper Silesia should have been attached to Poland and East Prussia would have been disconnected from the main territory of Germany. The Commission only suggested a plebiscite to be held in the district Allenstein, a territory in East Prussia populated by people of Slavic origin but – as for their religious affiliation – Protestants. Finally, at the proposal of Lloyd George, who feared that Germany would otherwise refuse to sign the peace treaty, Danzig was made a semi-autonomous city-state, and, in addition to Allenstein, the neighbouring territory, Marienwerder was also subject to plebiscite. It was also Lloyd

¹³ Wambaugh 1933, *op. cit.* 15-16, 46-98.; see further Heuer, Jürgen: *Zur politischen, sozialen und ökonomischen Problematik der Volksabstimmungen in Schleswig 1920*. [Beiträge zur Sozial- und Wirtschaftsgeschichte, Vol. 5] Kiel: Kommissionsverlag Walter G. Mühlau. 1973.

George who requested a plebiscite about Upper Silesia, an ethnically mixed territory, being, by national feelings and economic reasons, of major importance both for Germany and Poland. Finally, in July 1920, the overwhelming majority of its inhabitants voted for Germany both in Allenstein and Marienwerder and in March 1921, in Upper Silesia approximately 60% of the voters opted for Germany and 40% for Poland. In this case, however, the ethnic borders were clearly outlined by the results and the border was drawn in compliance with them.¹⁴

The Saar Basin was, pursuant to the secret agreement of the Allied Powers of February 1917, to be attached to France, however, President Wilson opposed this plan. Therefore, Georges Clemenceau proposed a transitional period of 15 years under the control of the League of Nations and a subsequent referendum to be held on the future of the territory. In 1933, nearly 91% of the voters decided to return to Germany.¹⁵

The cities of Eupen and Malmédy were attached to Prussia by the Congress of Vienna in 1815 but after the First World War the Belgian delegates established a claim to these territories. To this end, “public expressions of opinions” were carried out in the following manner: Germany had to surrender the territories to Belgium and the inhabitants who intended to remain a part of Germany could sign a register within a period of six months. Finally, this kind of consultation – which cannot be considered to be an uninfluenced declaration of will on behalf of the affected population¹⁶ – resulted in a majority for Belgium in July 1920.¹⁷

¹⁴ Wambaugh 1933, *op. cit.* 16-17, 99-141.; see further Eichner, Karsten: *Briten, Franzosen und Italiener in Oberschlesien 1920-1922. Die Interalliierte Regierungs- und Plebiszitkommission im Spiegel der britischen Akten.* [Beihefte zum Jahrbuch der Schlesischen Friedrich-Wilhelms-Universität zu Breslau, ed. by Josef Joachim Menzel, issue XIII.] St. Katharinen: Scripta Mercaturae Verlag, 2002.

¹⁵ Wambaugh 1933, *op. cit.* 411-441.; Münch, Fritz: Saar Territory. In: Bernhard, Rudolf (ed.): *Encyclopedia of Public International Law*, vol. IV, 1. Amsterdam: North-Holland. 2000, 271-273. For a more detailed analysis see Zenner, Maria: *Parteien und Politik im Saargebiet unter dem Völkerbundsregime 1920-1935.* Saarbrücken: Minerva-Verlag Thinner & Nolte. 1966.

¹⁶ Held, Hermann J.: Der Friedensvertrag von Versailles in den Jahren 1919-1923. In: *Jahrbuch des öffentlichen Rechts der Gegenwart*, 12. 1923/24, 320.

¹⁷ Wambaugh 1933, *op. cit.* 18-19, 518-538.

As for the border between Austria and the Kingdom of Serbs, Croats and Slovenes, the Treaty of Saint-Germain provided for a plebiscite in the Klagenfurt Basin in Carinthia, in a territory having, as regards its ethnicity and language, a mixed population (German- and Slovene-speaking inhabitants) but being geographically and economically an integral part of Austria. As the Commission of Yugoslav Affairs could not reach a common position, the Supreme Council concluded to organise a referendum. According to this, the territory was divided into a Northern and a Southern zone. A popular vote had to be held first in the Southern part of the region and it would have come to a plebiscite in the Northern part only if the majority had opted for Yugoslavia. Finally, in October 1920, nearly 60% of the votes in the Southern zone was cast for Austria, thus, a second referendum was not organised in the Northern zone; the territory remained a part of Austria.¹⁸

During the peace negotiations, plebiscites were proposed or demanded on other territories, as well. As for Alsace-Lorraine – a territory annexed by Prussia in 1871 – liberal and left-wing circles had been urging on a referendum for decades, the French government, however, refused the idea referring to the emigration of French and the settlement of German population since the German conquest, thus – as alleged – a plebiscite would only have legitimized the “bad action” of 1871. Finally, the territory returned to France.¹⁹

Austria requested plebiscites on all territories the Allied Powers intended to detach from it, like South-Tyrol, the German parts of Bohemia and Moravia, Austrian Silesia, Styria and Carniola but these repeated claims fell on deaf ears. The Duchy of Teschen and the neighbouring areas of Spisz and Orava – previously parts of Austria-Hungary – were highly debated between Poland and Czechoslovakia. Thus, the Supreme Council concluded to resolve the matter by referendum, however, it finally gave up this plan. For Eastern Galicia,

¹⁸ Wambaugh 1933, *op. cit.* 24-25, 42, 163-205. For a more detailed analysis see: Valentin, Hellwig – Haiden, Susanne – Maier, Barbara (eds): *Die Kärntner Volksabstimmung 1920 und die Geschichtsforschung. Leistungen, Defizite, Perspektiven*. Klagenfurt: Verlag Johannes Heyn. 2001.

¹⁹ Wambaugh 1933, *op. cit.* 17-18.

which provoked armed conflicts between Poland and Ukraine, the Peace Conference envisaged a plebiscite to be held after a transitional period of 25 years under Polish administration, but Poland raised objections and, as a result, the Supreme Council abandoned the idea. The endeavour of the League of Nations to organise a popular vote on the status of the city of Vilna and the surrounding areas which were arrogated both by Poland and Lithuania failed, too. Italy and Yugoslavia disputed about Eastern Istria, Fiume and Dalmatia. Lloyd George and Wilson favoured a plebiscite but Italy refused it and finally, Istria became a part of Italy, Dalmatia was split and Fiume was granted the status of a "Free State" (the latter was seized by Italy in 1924). As Sarah Wambaugh points it out: even if the Paris peace treaties gave much more attention to the principle of self-determination than former treaties, the Allied Powers avoided plebiscites in every important area, except for Upper Silesia, and in the few cases they opted for it, this was mostly a compromise for escaping from a dilemma.²⁰

The plebiscites held according to the peace treaties can be classified based on differences in their antecedents. Some of them were preceded by violence, others not. In Carinthia, for example, the State (and from 1 December 1918: the Kingdom) of Slovenes, Croats and Serbs tried to establish a *fait accompli* by marching into the country three times between December 1918 and June 1919. (A fourth, unsuccessful attempt was made after the plebiscite.) Casualties amounted to 266 on the Carinthian side and to 154 on the Yugoslav side.²¹ In Upper Silesia Polish separatists had sparked two uprisings before the vote took place and one more after the plebiscite, in the hope that they could attach the territory to Poland. According to a moderate estimate, the number of violent deaths amounted to 2,859 in the period between the German Revolution in November 1918 and the end of the Allied regime in July 1922, in which the three uprisings accounted for the great majority of

²⁰ Wambaugh 1933, *op. cit.* 23-24, 26-28, 31-34, 42.

²¹ Fräss-Ehrfeld, Claudia: *Geschichte Kärntens*, vol. 3, issue 2: *Kärnten 1918-1920. Abwehrkampf – Volksabstimmung, Identitätssuche*. Klagenfurt: Johannes Heyn. 2000, 156.

casualties.²² In case of North Schleswig, no violent events occurred around the plebiscite.

It is also important to note that the initiative for a popular vote did not always come from the defeated party which in this way tried to keep a territory that was planned to be detached by the victorious powers. The plebiscite about North Schleswig was, for example, required by the neutral Denmark, with reference to the Peace Treaty of Prague in 1866 that had already obliged Prussia to organise a vote, but which plebiscite was not held. In case of Allenstein, Marienwerder and Upper Silesia, the request for a plebiscite was made by the British peace delegation and Lloyd George, respectively, in order to prevent unnecessary conflicts with Germany²³ and to make sure that the future of these regions would be decided according to the will of their inhabitants. The idea of plebiscites was opposed by the Polish side.²⁴ The Klagenfurt Basin, similarly, was submitted to plebiscite against the wishes of Yugoslavia, not simply because Austria demanded a vote on all German-speaking territories that were planned to be detached from it but because the Commission on Yugoslav Affairs realized that the majority of the inhabitants of Carinthia – both Austrians and Slovenes – was not in favour of dividing their territory. Thus, it seemed reasonable to ask them instead of simply attaching the Klagenfurt Basin to Yugoslavia.²⁵ Maybe, as a general tendency, it can be laid down that victorious powers did not require a plebiscite over a territory which they hoped to acquire due to their victory (the status quo post bellum, their alleged ethnic majority or oppressed status before the war).

²² Wilson, Tim: *Fatal Violence in Upper Silesia, 1918-1922*. In: Bjork, James et al. (eds): *Creating Nationality in Central Europe, 1880-1950. Modernity, Violence and (Be) longing in Upper Silesia*. New York: Routledge. 2016, 72. Others think that the „Third Silesian Uprising” alone has cost nearly 4,000 lives in May 1921, see: Karch, Brendan: *Nation and Loyalty in a German-Polish Borderland. Upper Silesia, 1848-1960*. Cambridge: Cambridge University Press. 2018, 142.

²³ MacMillan, Margaret: *Paris 1919: Six Months that Changed the World*. New York: Random House. 2002, 220.

²⁴ Wambaugh 1933, *op. cit.* 215.

²⁵ Wambaugh 1933, *op. cit.* 173-177.

3 The Question of Plebiscites during the Peace Negotiations with Hungary

As regards the question of Hungary, the outcome of the post-war settlement cannot be understood without taking into consideration the antecedents. The Kingdom of Austria-Hungary, as it was laid down in the Compromise of 1867, was based on the union of the two countries under a common monarch and connected by some common matters: the foreign, military and financial affairs which were administered by common ministers. Other fields of public life were governed by separate parliaments and governments in Vienna and Budapest. Nevertheless, the society of the dual monarchy, which amounted to 51 million inhabitants, included several nationalities; 12 million German-speaking people (24%) and 10 million Hungarians (20%), who did not even represent a half of the total population. In addition, Czechs (13%), Poles (10%), Transcarpathian Ukrainians (8%), Romanians (6,5%), Croats (5%), Serbs (3-4%), Slovaks (4%), Slovenes (2,5%) and Italians (1,6%) were present as ethnic nationalities, whereas Bosnians and Jews were considered religious minorities.²⁶ These groups – except for Croats who had formed an autonomous part of Hungary since 1868 – were not granted a constitutional status under the Austro-Hungarian Compromise. In Hungary, according to statistical figures of 1910, ethnic Hungarians amounted only to 54,4% of the population. Romanians (16,1%), Slovaks (10,7%), Germans (10,4%), Transcarpathian Ukrainians (2,5%) and Serbs (2,5%)²⁷ were considered as members of the indivisible unitary Hungarian political nation which granted equal rights to all its members. Although their right to use their mother tongue in local administration was guaranteed²⁸ and the law also provided for public elementary and secondary education in their native language, the cultural policy of the late 19th and early 20th century tended to

²⁶ Romsics Ignác: *A Trianoni Békeszerződés*. (3rd, enlarged edition.) Budapest: Osiris. 2007, 9-10.

²⁷ Romsics Ignác: *Hungary in the Twentieth Century*. Budapest: Corvina – Osiris. 1999, 39.

²⁸ Act XLIV of 1868 on equal rights of nationalities.

make ethnic minorities assimilate. These efforts on the one hand, and the attraction of the newly-established Romanian and Serbian nation-states on the other hand gave most ethnic minorities a boost to aspirations for the federalization of the monarchy, the establishment of territorial autonomies and also gave rise to separatist movements. Such desires, however, were rejected by the Hungarian political elite and the attempts of the government on the eve of the world war to take the edge of nationalist progress were not crowned with success.²⁹ The advance of Serbian, Romanian and Czech military forces in the Southern, Eastern and Northern part of the country at the end of 1918 encouraged ethnic minorities to set up different representative bodies, proclaim their independence and make declarations on the accession to the neighbouring nation-states and hereby creating a *fait accompli* before the peace negotiations.³⁰

In October 1918, a revolution broke out in Budapest and a new government was formed by radical and social democratic forces of the former opposition. Without giving up the aim of preserving the territorial integrity of the country, the new Károlyi-government was ready to grant extensive rights to nationalities. Minority minister Oszkár Jászi, who was entrusted with the preparation of autonomy for ethnic minorities, planned to establish an “Eastern Switzerland”, a federation of autonomous ethnic cantons in Hungary in which every territorial unit would have had representation in the central government. He also professed the idea that the status of nationalities should be decided in plebiscites. As he declared in the “Short catechism on the right of ethnic minorities living in Hungary to self-government”:

“the Hungarian People’s Government already accepts the competence of the peace conference in advance relating to a resolution by virtue of which Slovaks and Romanians, Serbs and Rut-

²⁹ Romsics 1999, *op. cit.* 64-68.

³⁰ Romsics 2007, *op. cit.* 61-64, 68, 71-73.

henians living in Hungary can decide on their own by means of referendum which country they wish to belong to".³¹

These plans were, however, refused by the representatives of ethnic minorities as they, by that time, had already tended to separate themselves from the Hungarian nation-state. Despite this, the Károlyi-government believed that the Paris conference would draft the terms of peace based on the Wilsonian principles and therefore it did not offer military resistance against invading Czech, Serbian and Romanian armies. The Revolutionary Governing Council of the Hungarian Soviet Republic, which governed the country between March and August 1919, took actions to reconquer the occupied territories but it finally met the claim of the Supreme Council to evacuate the recaptured territory of Upper Hungary/Slovakia, and its offensive against Romanian forces in the East collapsed within some days. Romanian troops seized most part of what remained of Hungary including Budapest at the beginning of August, and the Hungarian Soviet Republic collapsed.³²

It was only at the beginning of December 1919 that the Supreme Council invited the Hungarian government to the peace conference.³³ As it turns out from the statement of Albert Apponyi, the leader of the peace delegation, the Hungarian standpoint was based on insisting on the integrity of Hungary's historical territory; the government was, however, ready to hold territorial plebiscites in order to put into effect the principle of national self-determination.³⁴ According to this, the preparatory notes, which had been completed for the Allied Powers before the delegation went to Paris, stressed mainly historical arguments, such as the thousand-year existence of the Hungarian statehood and Hungary's fight in defence of Europe against Ottoman

³¹ Domokos László: *Kis káté a Magyarországon élő nemzetek önrendelkezési jogáról*. Budapest: Lantos A. Könyvkereskedése. 1919, 15.

³² Romsics 1999, *op. cit.* 91-94, 98-99, 105-108; Romsics 2007, *op. cit.* 73-78, 97-100, 104-106, 110.

³³ Galántai József: *A trinanonai békekötés 1920. A párizsi meghívástól a ratifikálásig*. Budapest: Gondolat. 1990, 61.

³⁴ Romsics 2007, *op. cit.* 119.

expansion. Economic arguments were also brought forward which demonstrated that the Carpathian Basin represented an organic economic unity which was reasonable to be maintained further on.³⁵ Nevertheless, the so-called introductory memorandum of 14 January 1920 (Nr. II) stated that “[...] the Hungarian peace delegation does not intend and does not ask the persistence of the pre-war status quo” but it requested from the Supreme Council “to render it possible for Hungarian peoples and nationalities living on Hungarian soil to lay down the frameworks of their future life and relations by means of consultations and mutual agreement on their own”.³⁶ The memorandum on Transylvania (Nr. VIII) declared that even if the territory were incorporated into Romania, this could happen only by virtue of a decision made by the peoples living there. It also left the door open before wide-ranging political autonomy for the whole region if a plebiscite should decide so.³⁷

The Hungarian delegation received the terms of peace on 15 January. The draft envisaged the annexation of about two-thirds of the territory of Hungary and of 3.3 million ethnic Hungarians. On the following day, when Albert Apponyi held a speech in front of the representatives of the five great powers, he explicitly referred to the contradiction between the principles proclaimed by the Allied Powers prior to the peace negotiations and the planned settlement of the Hungarian case. He also claimed for a plebiscite in order to find out the wish of the population concerned. As he said:

³⁵ Szarka László: A magyar békejegyzékek érvrendszere és a trianoni békeszerződés. In: Szarka László (ed.): *Duna-táji dilemmák. Nemzeti kisebbségek – kisebbségi politika a 20. századi Kelet-Közép-Európában*. Budapest: Ister. 1998, 128-136.

³⁶ „When this unity is emphasized, the Hungarian delegation does not wish and does not demand the return to the *status quo* before the war!” (...) „We hereby kindly ask the Supreme Council to grant the opportunity to the Hungarian nation and the nations living in Hungary to decide on their future and relations by means of common discussion and agreement.” M. Kir. Külügyminisztérium (ed.): *A Magyar béketárgyalások. Jelentés a magyar békeküldöttség működéséről Neuilly s/S.-ben 1920 januárius-március havában*. Vol. I. Budapest: M. Kir. Tudományegyetemi Nyomda. 1921, 17. Partly also cited by Szarka 1998, *op. cit.* 350. endnote 12. and Romsics 2007, *op. cit.* 122.

³⁷ M. Kir. Külügyminisztérium (ed.) 1920, *op. cit.* Vol. I. 125, 133.

"[...] In the name of the great principle so happily phrased by President Wilson, namely that no group of people, no population may be transferred from one State to the other without being first consulted, – as though they were a herd of cattle with no will of their own, – in the name of this great principle, an axiom of good sense and public morals, we request, we demand a plebiscite on those parts of Hungary that are now on the point of being severed from us. I declare we are willing to bow to the decision of a plebiscite whatever it should be. Of course, we demand it should be held in conditions ensuring the freedom of the vote. [...]"³⁸

After the speech, a map was also presented which demonstrated the ethnic conditions in the Carpathian Basin and which showed to what extent the planned new borders did not correspond to the ethnic borders.

The claim for plebiscite was repeated in the official reply made by the Hungarian delegation to the terms of peace on 12 February.³⁹ This note also contained detailed articles on how the vote should be organized. It was laid down that all the regions between Hungary's actual borders and the borders set out by the draft treaty should be subject to referendum. The proposal would have empowered a commission of the Allied Powers and the representatives of the Hungarian government to specify the territories in which a popular vote should take place. In this respect, the reply provided that the plebiscite zones should be determined with regard to the ethnic conditions but the economic circumstances should also be taken into consideration. A proposal for these regions was prepared, too.⁴⁰ The official reply of the Hungarian

³⁸ Deák, Francis: *Hungary at the Paris Peace Conference. The Diplomatic History of the Treaty of Trianon*. New York: Morningside Heights – Columbia University Press. 1942, 543.

³⁹ M. Kir. Külügyminisztérium (ed.) 1921, *op cit.* Vol. II, 2.

⁴⁰ Unfortunately, the huge volumes of the Hungarian Foreign Ministry (see footnote 37) do not include this proposal. Romsics published, however, a map that had been put forward by the Hungarian diplomacy to French interlocutors. It indicates territories that were unconditionally claimed by the Hungarian diplomacy and other zones –

delegation also suggested that special commissions should be set up and be authorized to draw the final boundaries in accordance with the result of the votes.⁴¹

The Allied Powers replied to Apponyi's objections and requests at the beginning of May. The reply rejected any modification to the territorial clauses laid down in the terms of peace. As the Allies stated, they had been guided by the consideration that any modification to the borders fixed by them would lead to inconveniences graver than those proclaimed by the Hungarian Delegation. The reply also added that:

"The ethnographical conditions in Central Europe are such that it is indeed impossible for the political frontiers in their total extent to coincide with the ethnical frontiers." [...] "If the Allied and Associated Powers have thought it unnecessary to have recourse to a popular vote (of this nature), it has not been until acquiring the certitude that such a consultation, if carried out with all guarantees of complete sincerity, would not offer a result differing sensibly from those which they have arrived at after a minute study of the ethnographic conditions of Central Europe and of national aspirations. The will of the people was expressed in October and November of 1918 at the collapse of the Dual Monarchy when the populations, oppressed for so long, united with their Italian, Romanian, Yougo-Slav and Czecho-Slovak kindred."⁴²

the region of Eperjes and Transcarpathia, the Timis region and Burgenland in West Hungary – on the future of which Hungary suggested to hold plebiscites – Romsics 2007, *op. cit.* 139.

⁴¹ *Ibid.*, 3-4. Galántai thinks that the idea of partial plebiscites was closer to the reality than other claims, the main line of the argumentation of the Hungarian peace delegation, however, did not change – Galántai 1990, *op. cit.* 99. Romsics points out that a shift from the arguments based on historic right and geographic-economic unity can be observed towards the argumentation with the self-determination of the people by means of plebiscite – Romsics 2007, *op. cit.* 129.

⁴² Deák 1942, *op. cit.* 552.

4 Concluding Remarks and the Sopron Plebiscite

There can be no doubt that the post-war Hungarian settlement and the new borders did not correspond to the Wilsonian principles: considerable masses of ethnic Hungarians who lived in relatively homogeneous blocks near the borders came under the rule of neighbouring countries. In this respect, plebiscites held in these territories would have most probably led to a different outcome. The main question is, however, to what extent the Hungarian tactics were appropriate to change the plans of the Allied Powers. The question “what would it be like if...” is, of course, out of the scope of historical scholarship. Nevertheless, it is clear that the persistence on the territorial integrity of Hungary did not look promising in spite of the fact that a general claim for plebiscites had been put forward by the Hungarian peace delegation in addition to the historical and economic arguments. Austria, from this point of view, pursued a different but perhaps more effective strategy: the Austrian government accepted the disintegration of the Habsburg Empire as a given condition and insisted on the retention of only the undoubtedly German-speaking parts of the country. Thereby, it could genuinely refer to the principle of self-determination and request plebiscites in all territories that were populated by a German majority. Even so, Austria could achieve a single plebiscite in the Klagenfurt area and managed to get most parts of Burgenland, a territory of Western Hungary mostly inhabited by Austrians.⁴³ It was not until the Hungarian peace delegation had received the official terms of the peace that they came forward with a more detailed proposition regarding plebiscites. By this time, however, the chance to win at least some members of the Supreme Council for the cause had been rather thin. Maybe, if the Hungarian diplomacy had focused on some pure Hungarian regions next to the new borders and had insisted on referenda to be carried out there right from the very beginning, rather than stressing the historical integrity of old Hungary, the chance to alter the conditions of peace would have

⁴³ Galántai 1990, *op. cit.* 77-78.

been bigger.⁴⁴ Such behaviour, however, would have certainly been interpreted in the motherland as an unpardonable renunciation. It was practically impossible to do so from the perspective of inner politics. As Ibolya Murber points it out: the Hungarian government had, at the end of the World War, no widely-accepted idea of the state by means of which the traditional conception based on Hungary's territorial integrity could have been replaced.⁴⁵ This was certainly true during the peace negotiations, too.

The only plebiscite that was held on the territory of historical Hungary in connection with the post-war settlement was not envisaged by the peace treaties. The Treaty of Saint-Germain awarded Burgenland, a territory of Hungary (4,500 square kilometres with 350,000 inhabitants), to Austria without any kind of popular consultation. Most part of the population was German-speaking. On the day appointed for the takeover (28 August 1921), however, different paramilitary groups – partly supported by the Hungarian government – prevented the Austrian gendarmerie from marching into the territory. Finally, an agreement was brokered between István Bethlen Hungarian prime minister and Johannes Schober Austrian chancellor, according to which the population of one part of Burgenland, the city of Sopron (Ödenburg) and its environs had to decide by plebiscite which country they wished to belong to. The vote took place between 14 and 16 December and the majority (65%) voted for Hungary. The remaining (bigger) part of Burgenland was attached to Austria.⁴⁶

⁴⁴ At least – as Romsics points it out – the critique of the terms of peace from the Hungarian government could have provoked more sympathy if this critique had been based on national principle – Romsics 2007, *op. cit.* 130.

⁴⁵ Murber Ibolya: Az osztrák és a Magyar válságkezelés 1918-1920. Hasonlóságok és különbségek a közös birodalom összeomlását követően. In: *Századok* 152(6). 2018, 1301.

⁴⁶ Ormos Mária: *Civitas fidelissima. Népszavazás Sopronban 1921.* Győr: Gordiusz. 1990.; Zsiga Tibor: Mikor volt az első népszavazás? In: *Beltügyi Szemle* 28(2). 1990, 78-83.

Bibliography

- Cumming, Caroline King – Pettit, Walter William (eds): *Russian-American Relations, March, 1917 – March, 1920. Documents and Papers*. New York: Harcourt, Brace and Howe. 1920.
- Deák, Francis: *Hungary at the Paris Peace Conference. The Diplomatic History of the Treaty of Trianon*. New York: Morningside Heights – Columbia University Press. 1942
- DiNunzio, Mario R. (ed.): *Woodrow Wilson: Essential Writings and Speeches of the Scholar-President*. New York – London: New York University Press. 2006.
- Domokos László: *Kis káté a Magyarországon élő nemzetek önrendelkezési jogáról*. Budapest: Lantos A. Könyvkereskedése. 1919.
- Eichner, Karsten: *Briten, Franzosen und Italiener in Oberschlesien 1920-1922. Die Interalliierte Regierungs- und Plebiszitkommission im Spiegel der britischen Akten*. [Beihefte zum Jahrbuch der Schlesischen Friedrich-Wilhelms-Universität zu Breslau, ed. by Josef Joachim Menzel, issue XIII.] St. Katharinen: Scripta Mercaturae Verlag, 2002.
- Fräss-Ehrfeld, Claudia: *Geschichte Kärntens*, vol. 3, issue 2: *Kärnten 1918-1920. Abwehrkampf – Volksabstimmung, Identitätssuche*. Klagenfurt: Johannes Heyn. 2000.
- Galántai József: *A trinononi békekötés 1920. A párizsi meghívástól a ratifikálásig*. Budapest: Gondolat. 1990.
- Hart, Albert Bushnell (ed.): *Selected Addresses and Public Papers of Woodrow Wilson*. Honolulu, Hawaii: University Press of the Pacific. 2002.
- Held, Hermann J.: Der Friedensvertrag von Versailles in den Jahren 1919–1923. In: *Jahrbuch des öffentlichen Rechts der Gegenwart*, 12. 1923/24, 313–403.
- Heuer, Jürgen: *Zur politischen, sozialen und ökonomischen Problematik der Volksabstimmungen in Schleswig 1920*. [Beiträge zur Sozial- und Wirtschaftsgeschichte, Vol. 5] Kiel: Kommissionsverlag Walter G. Muhlau. 1973.
- Jayne, Allen: *Jefferson's Declaration of Independence: Origins, Philosophy, and Theology*. Lexington, Kentucky: The University Press of Kentucky. 1998.
- Karch, Brendan: *Nation and Loyalty in a German-Polish Borderland. Upper Silesia, 1848-1960*. Cambridge: Cambridge University Press. 2018.
- Lansing, Robert: *The Peace Negotiations*. Fairfield, IA: 1st World Library – Literary Society. 2004.
- MacMillan, Margaret: *Paris 1919: Six Months that Changed the World*. New York: Random House. 2002.
- Manela, Erez: *The Wilsonian Moment. Self-Determination and the International Origins of Anticolonial Nationalism*. New York: Oxford University Press. 2007.

- M. Kir. Külügyminisztérium (ed.): *A Magyar béketárgyalások. Jelentés a magyar békeküldöttség működéséről Neuilly s/S.-ben 1920 januárius-március havában*. Vol. I-II. Budapest: M. Kir. Tudományegyetemi Nyomda. 1921.
- Mattern, Johannes: *The Employment of the Plebiscite in the Determination of Sovereignty*. Baltimore: The Johns Hopkins Press. 1921.
- Murber Ibolya: Az osztrák és a Magyar válságkezelés 1918-1920. Hasonlóságok és különbségek a közös birodalom összeomlását követően. In: *Századok* 152(6). 2018, 1293-1320.
- Münch, Fritz: Saar Territory. In: Bernhard, Rudolf (ed.): *Encyclopedia of Public International Law*, vol. IV, 1. Amsterdam: North-Holland. 2000, 271-273.
- Ormos Mária: *Civitas fidelissima. Népszavazás Sopronban 1921*. Győr: Gordiusz. 1990.
- Romsics Ignác: *A Trianoni Békeszerződés*. (3rd, enlarged edition.) Budapest: Osiris. 2007.
- Romsics Ignác: *Hungary in the Twentieth Century*. Budapest: Corvina – Osiris. 1999.
- Szarka László: A magyar békejegyzékek érvrendszere és a trianoni békeszerződés. In: Szarka László (ed.): *Duna-táji dilemmák. Nemzeti kisebbségek – kisebbségi politika a 20. századi Kelet-Közép-Európában*. Budapest: Ister. 1998.
- Thürer, Gerhard: *Das Selbstbestimmungsrecht der Völker mit einem Exkurs zur Jurafrage*. Bern: Stämpfli & Cie AG. 1976.
- Valentin, Hellwig – Haiden, Susanne – Maier, Barbara (eds): *Die Kärntner Volksabstimmung 1920 und die Geschichtsforschung. Leistungen, Defizite, Perspektiven*. Klagenfurt: Verlag Johannes Heyn. 2001.
- Wambaugh, Sarah: *Plebiscites since the World War. With a Collection of Official Documents*. Vol. I. Washington: Carnegie Endowment for International Peace. 1933.
- Wilson, Tim: Fatal Violence in Upper Silesia, 1918-1922. In: Bjork, James et al. (eds): *Creating Nationality in Central Europe, 1880-1950. Modernity, Violence and (Be)longing in Upper Silesia*. New York: Routledge. 2016, 53-86.
- Wilson, Woodrow: *Address of President Wilson Delivered at Mount Vernon, July 4, 1918*. Washington. 1918.
- Zenner, Maria: *Parteien und Politik im Saargebiet unter dem Völkerbundsregime 1920-1935*. Saarbrücken: Minerva-Verlag Thinnies & Nolte. 1966.
- Zsiga Tibor: Mikor volt az első népszavazás? In: *Belügyi Szemle* 28(2). 1990, 78-83.

*István Szabó**

THE IMPACT OF TRIANON ON PUBLIC LAW TRADITIONS¹

1 Prologue

The military collapse in 1918 launched a revolutionary wave in Hungary which – similarly to the other loser states of Central Europe – also did away with the monarchic system of government. The new system of government in Germany and Austria was there to stay; in Hungary, however, the constitutional order of the era prior to the military collapse was re-established just one and a half years later. What could be the reason for these sudden swings? Was the break with the earlier public law setup a well-considered constituent step or was it merely designed to drain off tension piling up in the wake of the war? Did it mediate a well-considered demand for change, or was it no more than a gesture towards the victorious powers?

The question really is to what extent the goal of republican endeavours was to break with the past? Did they regard the republic as a constitutional setup ensuring a more beautiful and happier future than the monarchy based on reasons of state philosophy, or the choice of the system of government (the break with the past) was no more than an instrument to achieve some political objectives? The paramilitary organisation fighting for Kosovo's independence (UCK) called itself a liberation army, which would have been fitting also for the organisation that had earlier fought for the separation of Northern Ireland. The latter, however, opted for the name of Irish Republican Army (IRA) instead of liberation army. A republican system of government means liberation

* Dean and full professor – Pázmány Péter Catholic University - Faculty of Law and Political Sciences, Department of Legal History, szabo.istvan@jak.ppke.hu.

¹ The short term „Trianon” refers to the Treaty of Peace between the Allied and Associated Powers and Hungary, signed in the Palace of Trianon in Versailles, Paris, France on 4 June 1920.

because they wish to break away from a monarchy and the change in the system of government renders belonging there impossible also in terms of constitutional techniques. A republic cannot be a constituent element of the United Kingdom.

Drawing a parallel from Hungary's history, similar motivation can be discovered also in the case of Kossuth's republican sentiments. The republic was to underscore the break-off from the Habsburgs rather than a break with traditions. Insistence on the past can be found at several points in his public law thinking. As the leader of the so called municipalists,² when thinking about the reform of the counties, he wished to retain a number of the features of the old counties, those which could be fitted in with the framework of a civil (non-feudal) state.³ He took a stand for the tied mandates of the representatives (delegates) of the national assembly even at the time of the Compromise while in exile.⁴ Traditionalism broke through dogmatism also in this case, because the principle of representation and the free mandate are handled as interrelated notions. In his draft of the constitution produced after the freedom fight (Constitution of Kütahya) he again combined modernisation with traditions. Obviously, he maintained the institution of an accountable ministry, but he wished to align the names of the portfolios established in 1848 with traditions as he wrote: *"I regard the historical foundation and its analogy to be retained also with respect to the ministers."*⁵ He wished to call the minister of justice "országbíró" (judge royal), the minister of finance as "tárnokmester" (master of the treasury), the ministry of defence "országos főkapitány" (national captain in chief) and the minister of the interior "országos

² An umbrella term referring to a group in the Hungarian Parliament, the members of which advocated for maintaining the decision-making powers of the counties in the 1840s.

³ Stipta István: Kossuth Lajos önkormányzat-koncepciója. In: Balogh Judit (ed.): *Európai Magyarországot! Kossuth Lajos és a modern állam koncepciója*. Debrecen: DE-ÁJK. 2004, 111–115.

⁴ Stipta 2004, *ibid* 127–130.

⁵ Kossuth Lajos: Alkotmányjavaslat (1851. április 25. – későbbi módosításokkal és javításokkal), <http://mek.niif.hu/04800/04882/html/szabadku0167.html>, downloaded: 2020.12.08.

főispán” (lord-lieutenant).⁶ What needs to be highlighted in particular is that he retained the traditional names of institutions also in the republican system of government. He envisaged a “kormányzó” (governor) elected by the people for a specific period of time at the head of the state, whose deputy - taking the American vice president as an example - was to be the “nádor” (palatine).⁷ Even though he changed the system of government, he did not fully break away from the previous system of government. Based on these facts, I deduced that Kossuth’s republican sentiments were probably motivated by the break with the Habsburgs and not a break with the past.

Coming back to the question raised (in what way can the period of 1918-1920 be linked to public law traditions), we can state that a break with the previous public law setup is not a necessary consequence of a republican system of government. Even a republic could be linked with the traditions of the preceding monarchic constitutional system. Following a constitutional reform, the connection is never one hundred percent as every constitution evolves, certain elements are omitted, while new elements are included. Changes take place even if the system of government remains a monarchy.

In the study below, I examine what motivated the objective to break with traditions in the autumn of 1918 and what may have caused a radical realignment a year after. What were the effects of the country’s territorial disintegration and the Peace Treaty sealing it on Hungarian public law.

2 The peculiarities of the constituent process in the autumn of 1918

As mentioned in the preceding section, the events taking place in Hungary manifested a number of similarities with those taking place in the other two loser states (Germany, Austria) in the initial weeks.

⁶ Kossuth 1851, *op. cit.*; Stipta István: Kossuth Lajos 1859-es alkotmánykonceptiója. In: *Jogtudományi Közöny* 1995/1, 52.

⁷ Kossuth 1851, *ibid*

The Néphatározat (People's Resolution) issued on 16 November introduced a republican system of government (the people's republic),⁸ and envisaged convening a constituent national assembly.⁹ While the elections were soon held in Germany and Austria,¹⁰ it came to a standstill in Hungary because of territorial disputes. The people's law on the election of the national assembly¹¹ extended to the entire territory of the state prior to the war with the exception of Croatia, but the Entente Powers were opposed to it.¹²

It was, however, a greater problem than the obstruction of the Entente Powers that in actual fact the process of preparing the constitution did not begin at all, even though the People's Resolution specified the adoption of the constitution of the people's republic as the task of the constituent national assembly.¹³ Whereas in Germany Hugo Preuß entrusted with the preparation of the constitution drafted its first concept as early as in December 1918,¹⁴ and No. 15 of the *Reichsanzeiger* published the first public draft of its text on 20 January 1919, virtually nothing happened in Hungary. Reading the minutes of the meetings of the Council of Ministers, we can find a single sentence note at the meeting of 20 November 1918, in which the minister of justice was assigned to prepare the constitution of the republic.¹⁵ Four months passed until the Tanácsköztársaság (Council Republic), but the new

⁸ People's Resolution of 16 November 1918 Article I.

⁹ People's Resolution of 16 November 1918 Article II(1).

¹⁰ In Germany, the elections were held on 19 January 1919 and the national assembly held its constituent meeting in Weimar on 6 February; in Austria, the constituent national assembly was elected on 6 February and it held its constituent meeting on 4 March.

¹¹ People's law XXV of 1919.

¹² Lieutenant-Colonel Vix requested Mihály Károlyi to postpone the elections in his letter dated as early as 23 January 1919. [MNL OL K-26-1920-III-1455].

¹³ People's Resolution of 16 November 1918 Article II(1).

¹⁴ Preuß, Hugo: *Das Verfassungswerk von Weimar*. Herausgegeben, eingeleitet und erläutert von Lehnert, Detlef, Müller, Christoph, Schefold, Dian. Heidelberg: Mohr Siebeck. 2015, 111-134.

¹⁵ The text in the minutes is no more than this: "Upon the submission of the minister of justice, the Council of Ministers entrusts him with the work of preparation for the constitution of the republic" [MNL OL K-27 meeting of 20 November 1918, p. 6].

constitution was not even mentioned at the meetings of the Council of Ministers. I myself could not find any evidence in sources of the archives, nor have I read in secondary literature about anyone finding any ministerial document containing at least a concept of the main lines of the new constitution, let alone a draft text.

Similarly to the work of the government, the activity of legal science also remained at a very low level. In Germany, beside the official draft by Hugo Preuß, dozens of legal scholars and social scientists drafted independent constitutional drafts,¹⁶ whereas in Hungary, there was quiet in legal science - similarly to the ministerial preparation. Following the detailed study of bibliographies, I found only a single study related to the subject matter. Early in 1919, Emil Benárd published a concept for the constitution in the journal *Jogállam*;¹⁷ however, he did not get to drafting a text either.

We find a number of writings demanding revolutionary changes in the articles published in *Jogtudományi Közlöny* from November 1918, but nobody wrote about this being conditional upon a new codified constitution. The series was opened by Ruzssem Vámbéry's writing entitled *Forradalom* (Revolution),¹⁸ and subsequently we could read about the democratisation of the administration of justice,¹⁹ the tasks of legal science after the revolution²⁰ or about revolutionary legislation.²¹ The writings of Károly Szladits and Pál Angyal stand out from among the best of legal science. Szladits discussed the transformation of

¹⁶ Fenske, Hans: Nichtamtliche Verfassungsentwürfe 1918/1919. *Archiv des öffentlichen Rechts* 121/1996, 24–58.; Dubben, Karin: *Die Privatentwürfe zur Weimarer Verfassung – zwischen Konservatismus und Innovation*. Berlin: Logos. 2009.

¹⁷ Benárd Emil: A Magyar Népköztársaság alkotmánya. In: *Jogállam* 1919/1–2, 73–85.

¹⁸ Vámbéry Ruzssem: Forradalom. In: *Jogtudományi Közlöny* 1918/44–45, 337–338.

¹⁹ Ládai István: Az igazságszolgáltatás demokratizálása. In: *Jogtudományi Közlöny* 1918/46, 345–346, *Jogtudományi Közlöny* 1918/47, 353–355, *Jogtudományi Közlöny* 1918/49, 370–371.

²⁰ Rosnyai Dávid: A jogtudomány első feladata a forradalom után. In: *Jogtudományi Közlöny* 1918/46, 346–348.

²¹ Morus Junior: Forradalmi jogalkotás. In: *Jogtudományi Közlöny* 1919/6, 41.

the legal system,²² and his inaugural address of rather revolutionary tones delivered at the 23 February meeting of the Hungarian Law Association was also remarkable. In this latter, he discussed the need for the renewal of the constitution, referring primarily to resolving the ethnic minority issue, but he did not mention a new codified constitution.²³ Pál Angyal discussed the amendments to criminal law becoming necessary because of the republican system of government,²⁴ but he too resorted to modifications to the existing legal order instead of building up a new constitutional order breaking with the past.

All in all, it can be established about the relationship of legal science to a new constitution that apart from Emil Benárd's writing already mentioned, no independent works were published about its necessity, and what's more, the problem was left untouched even in relation to the studies addressing the revolutionary transformation.

Let us then discuss briefly the only study about the subject matter. With quotations taken from it, I wish to summarise the essence of Emil Benárd's thoughts below:

“Presumably, in this way the largely unwritten historical constitution of our country will be replaced by a written constitution, perhaps hurting those who see the power of the Hungarian con-

²² Szladits Károly: A jogrendszer átalakulása. In: *Jogtudományi Közlöny* 1918/51, 385–386.

²³ “The war and the revolution transformed our statehood. We have to rebuild our entire constitution, almost our entire administration up to the leader of the people's state and according to their needs. We await ensuring the historical and economic integrity of the Hungarian state from the Peace Conference with full trust. But within this uniform state territory, we wish to set up a new governing structure to replace the old one which based on the system of autonomy for ethnic minorities grants the enforcement of free self-government to our brother ethnic minorities. The related separation of the responsibilities of the authorities and their unification into a higher unit is the most difficult problem of the governing structure through the successful solution of which Hungarian men of the law will fill in a world historical calling, acting as a paragon for all times.” *Jogtudományi Közlöny* 1919/9, 65.

²⁴ Angyal Pál: Büntető jogszabályaink és a Magyar Népköztársaság. In: *Jogtudományi Közlöny* 1918/49, 369–370; *Jogtudományi Közlöny* 1918/50, 379–380, *Jogtudományi Közlöny* 1918/51, 387–388, *Jogtudományi Közlöny* 1919/1, 4–5, *Jogtudományi Közlöny* 1919/2, 13–14, *Jogtudományi Közlöny* 1919/8, 58–59.

stitution in its primordiality, in its historical genesis. [...] On the other hand, this constitution need not break with the historical past in all aspects. [...] It would be a senseless dissipation of the great values of the nation, if our constitution failed to make use of the non-obsolete, reformed and proven institutions of the ancient Hungarian constitution. In this way, the new constitution can be the incorporation in writing of the centuries old constitutional institutions which largely evolved historically and thus even though the constitution would be put in writing it would bring forth the basic historical nature of the Hungarian constitution. [...] The recognition that the constitution of the People's Republic will consist partly of existing and partly of new constitutional institutions could lead to a principle of editing that the law on the constitution will contain only the new items of our constitution and otherwise declare the maintenance of the old institutions of our constitution desired to be retained. This kind of editing would express the historical nature of our constitution and the continuity of constitutional law even in appearance; in contrast, the spirit of the changed times requires a technique for editing the law, which aims at conciseness, clarity, simplicity and completeness. Let, therefore, the new constitutional law be the integrated and complete constitutional code of the People's Republic of Hungary accessible to all."²⁵

The essence of Emil Benárd's thoughts: One must not fully break with public law traditions, but to develop a new constitutional system, it is not enough to supplement the historical constitution with new laws, but it has to be consolidated into a codified constitution. He upholds a new written constitution, but rejects a full break with traditions.

²⁵ Benárd 1919, *ibid.* 73–85.

3 The relationship of the Károlyi era to traditions: regulating the national coat of arms

Although political communication in the era marked by the name of Mihály Károlyi was characterised by a break with the past, yet as seen in the section above there was no effective constituent (constitutional preparatory) activity. Thus, we find little by way of objective sources for the analysis of connecting to traditions or breaking with them. The regulation of the national coat of arms is one of the rare cases which could be suitable for this. Although the People's Resolution did not specify a relevant obligation for the government,²⁶ yet it was regarded as important. It is worthwhile to examine the regulation of the coat of arms both in terms of form and content to see how strong their bond was to traditions or to what extent they broke with them. I understand the legal background to the statement to mean the first and the world of symbols associated with the coat of arms as the second.

The new coat of arms was established by a government decree.²⁷ Albeit Article III of the People's Resolution assigned full sovereignty to the people's government led by Mihály Károlyi until the constituent national assembly was convened, which meant that the government could enact laws (including people's laws), in the case of specifying the national coat of arms they used the form of government decree following the practice prior to 1918. The regulation of the national coat of arms by government decree is unusual in the framework of a codified constitution as it would be more fitting to include it in the text of the constitution itself. Using the form of government decree is linked to tradition as the specification of the national coat of arms had historically been a competence of the monarch, whose powers were exercised through the responsible ministry once it was set up. Presumably, not with direct deliberateness, but the Károlyi government built the regulation of the coat of arms on traditional legal basis.

²⁶ Article IV of the People's Resolution lists the subject matters, in which the people's government had to take measures without delay [franchise, freedom of the press, juries by the people, right of association and assembly, land reform].

²⁷ ME Decree on the coat of arms of the republic and the state seal.

The decree modified the former small coat of arms to the extent that the Holy Crown was removed from it together with the crown in the middle of the triple hill:

“The coat of arms of the People’s Republic of Hungary differs from the state’s small coat of arms used to date to the extent that the royal crown resting on the crest and the open crown formerly in the middle part of the triple hill will be omitted.”²⁸

We need to pay attention also to the terminology of the text of the decree: the crown resting on the crest is referred to as the royal crown rather than the Holy Crown. The removal of the crown and reference to it as the royal crown clearly leads to the conclusion that the *Károlyi era* regarded the crown on the coat of arms as a symbol of the system of government. This meant a break with traditions as they did not accept the meaning of the Holy Crown symbolising Hungarian statehood.

4 The Council Republic and the conditions after its collapse

In a manner characteristic of totalitarian states, the Council Republic quickly dealt with the task of “creating a constitution”. Of course, within quotation marks, because this was no more than a formal constitution. The document issued by the national assembly of the allied councils on 23 June 1919 clearly broke with tradition already in its first article as usual in the case of socialist constitutions.²⁹ The condemnation of the past and the promise of a happier future are among the general characteristics of socialist (communist) powers.

After the collapse of the Council Republic, the question was whether to connect to the people’s republic proclaimed on 16 November 1918,

²⁸ ME decree 5746/1918 Article 1(1).

²⁹ “In the Council Republic, the proletariat seized all freedoms, rights and powers, in order to terminate the capitalist order and the rule of the bourgeoisie and to replace them with the socialist order of production and society.” [Constitution of the Socialist Allied Council Republic of Hungary Article 1].

or to the period preceding it. The victorious powers - wishing to avoid the return of the Habsburgs - expected the republican version. At the time of the Council Republic even the future prime minister, István Bethlen made a promise to the victorious powers along these lines.³⁰ Later, the Entente Powers informally signalled that they would regard a plebiscite as desirable concerning the issue of the system of government.³¹ They hoped that the majority of the population was for the republic. However, Archduke Joseph, the *homo regius* delegated by Charles IV in the autumn of 1918 also participated in relaunching public life. He invited István Friedrich to form a government. And the new government adopted the following decision at its first meeting:

“The council of ministers declares that the official name of Hungary shall be the Republic of Hungary headed by Archduke Joseph as governor.”³²

The decision recognizes the republican system of government but breaks with the People’s Resolution at two points. On the one hand, it does not use the people’s republic included in it for the designation of the system of government, while the fact that the decision recognises Archduke Joseph as the head of state constitutes a particularly clear break. Undisputedly, he was linked to the era before the People’s Resolution

Although Archduke Joseph soon resigned his office, the next months were spent in this interim state. The government recognized the republican system of government, but its actual activities were not clearly linked to the public law setup after 16 November 1918. For instance, the government gave orders for the reestablishment of the conditions of 30 October 1918 for municipalities already at the

³⁰ Ruszoly József: Az első nemzetgyűlési választások előzményeihez. In: Ruszoly József: *Alkotmánytörténeti tanulmányok 1*. Szeged: JATE Kiadó. 1991, 222–223.

³¹ Prime minister Károly Huszár referred to this even in the council of minister’s debate of the bill concerning the reestablishment of constitutionality. [MNL OL K-27. Meeting of 13 February 1920. 33.].

³² MNL OL K-27 meeting of 8 August 1919. 10.

beginning of its rule (on 8 August).³³ Naturally, there were several cases when the government ordered the reestablishment of the legal situation that existed before 21 March 1919.

At its session of 4 December 1919, the council of ministers discussed an interesting submission. The Party of the Hungarian Kingdom initiated the reinstatement of the Holy Crown onto the coat of arms and the use of the adjective 'public' instead of the term 'people's republic' for public authorities.³⁴ However, the council of ministers did not regard adopting a decision desirable for general political reasons. Although the submission only wanted to render the naming of public authorities neutral with regards to the system of government, even that was considered a sensitive decision by the government. It reveals a lot that the initiative was put on the agenda indicating sympathy for the issue. The submission itself was rather muddled as the government had already required the courts in its decree promulgated on 20 August to bring their verdicts in the name of the Republic of Hungary,³⁵ yet the Party of Hungarian Kingdom still referred to the people's republic.

³³ "Until the constitutional reorganisation of public administration, all the municipal bodies (legislative committee, administrative committee, body of representatives, town council, village prefecture and their formations) and all the individuals, who exercised the powers of authority or office either as members of the bodies referred to, or on the basis of election or appointment on 30 October 1918 shall immediately begin their operation [...]" [Decree 3886/1919. ME. (2)].

³⁴ "The prime minister shall present the submission of the Party of Hungarian Kingdom requesting a government measure that the Holy Crown be reinstated into the coat of arms of the Hungarian state, Hungarian public authorities be referred to as 'public' and not that 'of the people's republic' and these names be used on all official documents and that the courts bring their verdicts in the name of the Hungarian state and not on behalf of the people's republic." [MNL OL K-27 meeting of 4 December 1919. 46].

³⁵ "Until constitutionality is fully re-established, the courts shall bring their verdicts in the name of the Republic of Hungary." [Decree 4038/1919. ME. Article 1 (2)].

5 The strongest appearance of public law traditions: the specification of the system of government

The national assembly convening in February 1920 expressly broke with the public law setup of the Károlyi era. The act on the reinstatement of constitutionality declared their entire operation invalid, specifically mentioning the People's Resolution.³⁶ With rendering the latter null and void, the system of government (kingdom) that existed before 16 November 1918 was re-established, yet the text on the filing stamp of the prime minister's office read *"The office of the prime minister of the Republic of Hungary"* even after the election of Miklós Horthy as governor.³⁷ Fearing the reactions of the Entente Powers, the issue of the old system of government still was not raised.

The impasse was surmounted by the establishment of the new government led by Sándor Simonyi-Semadam. At the first session of the council of ministers following the formation of the government on 15 March 1920, he declared that the system of government of the country was not a republic, but a kingdom, and the issue of a government decree on this subject matter was regarded necessary.³⁸ The minister of justice presented the draft decree the next day,³⁹ on the basis of which Decree 2394/1920 ME on *"the naming of public authorities, offices and institutions and the use of the Holy Crown on the national coat of arms"* was promulgated on 18 March. In essence, this legal regulation was the implementation decree of Act I of 1920 and declared that:

"[...] Act I of 1920 [...] did not change Hungary's thousand-year-old system of government, [...] and declared null and void the

³⁶ "All the provisions issued in people's laws, decree or any other description by the bodies of the so-called people's republic and council republic shall be null and void. [...] The so-called people's resolution and people's laws registered in the Corpus Juris shall be deleted." [Article 9 Act I of 1920].

³⁷ MOL K-26-1920-III-1443 (2160/1920). [The document mentioned as an example was filed on 12 March 1920.]

³⁸ MOL K-27. Meeting of 15 March 1920. p. 12.

³⁹ MOL K-27. Meeting of 16 March 1920, pp. 28–31.

anti-constitutional revolutionary provisions which [...] desired to erase the institution of kingdom [...]. Relative to this therefore, so long as the legislature does not provide otherwise, Hungary's lawful system of government shall remain the kingdom."

One could conclude from the background of legal sources that the republican system of government was changed to kingdom by a government decree. And that would be a rather strange step. There is, however, a nuance to the picture, namely that prior to 1918 the system of government was determined by common law, which is a norm existing without being incorporated in writing. Over the centuries, a number of the common law rules of the historical constitution were reinforced by law, their normative force, however, still did not stem from these, but from common law. In the nine centuries, such written confirmation was not regarded necessary for the system of government; it could have been topical in the midst of the muddy conditions of 1920. There is no doubt, it was extraordinary that such an essential element of common law was confirmed not by law, but by decree. István Csekey was absolutely right when he raised this problem.⁴⁰

All this, however, does not alter the fact that within the framework of the historical constitution, the law and the decree could be legal sources, being not only substantive (creating rights), but also formal (confirming existing rights). In these days, however, only the former is admissible.

After Werbőczy,⁴¹ Hungarian public law attributed three functions to common law: explaining the law, deteriorating the law and substituting for the law.⁴² The essential difference between the two types of constitution is that in the case of the historical constitution,

⁴⁰ "This recently issued decree is a strong and decisive step towards the full implementation of the continuity of law, but we object why all this did not take place in the form of a law." Csekey István: A kormányzó és jogköre. In: *Magyar Jogi Szemle* 1920/5, 260.

⁴¹ Hármaskönyv Előbeszéd Title 11. Articles 3–5.

⁴² Molnár Kálmán: *Magyar közjog*. Pécs: Danubia, 1926, 31; Egyed István: *A mi alkotmányunk*. Budapest: Magyar Szemle Társaság. 1943, 53.

there existed also a law substituting custom, while in the case of a codified constitution it only had the law explanatory function. Legal practice can resolve legal disputes only on the basis of itemised legislative texts. The law supplementary custom, however, arose so that legal practice could resolve legal disputes even in the absence of itemised legislative texts, that is, legal practice made up for the law. A law or a decree can be a substantive source of law, if it confirms the law substituting custom. Today, we can find substantive source of law only in the Fundamental Law,⁴³ which may render it comprehensible that we handle every law and decree automatically as formal sources of law.

So, the system of government became *de jure* kingdom as from the entry into force of Act I of 1920, there can be no doubt about it. Filling the royal throne, however, was made increasingly difficult by reasons of both foreign and domestic politics, thus a settlement of the *de facto* situation did not take place. The country remained a kingdom for the long run without filling the royal throne. Now without a king, the republican elements predominated in the operation of the state. This position was decisive also in the public law literature of the age (see, for instance, the works of István Csekey,⁴⁴ Ödön Polner⁴⁵ or László

⁴³ In paragraph (67) of the justification to AB Decision 22/2016. (XII. 5.) the Constitutional Court declared that “[...] the constitutional identity of Hungary is a fundamental value, which is not created by the Fundamental Law, it is only recognized by the Fundamental Law.” [See also Varga Zs. András: Történeti alkotmányunk vívmányai az Alaptörvény kógens rendelkezéseiben. In: *Iustum Aequum Salutare* 2016/4, 89.] Here the Fundamental Law functions as a substantive source of law: it does not give rise to rights, but confirms existing ones.

⁴⁴ Csekey criticised Act I of 1920 as follows: “Rather than dividing the powers of the state between the head of state and the national assembly representing the members of the nation based on the Holy Crown theory, it continued to reserve a substantial portion of the rights due to the head of state thereby smuggling a very peculiar republican tasting spirit of sovereignty into the Hungarian constitutions.” Csekey 1920, *ibid* 259.

⁴⁵ Ödön Polner’s opinion was as follows: “There is no doubt this corresponds to the legal conditions of a republic and Act 1 of 1920 determined the legal standing and powers of the governor deliberately and admittedly according to its justification as those usually assigned to the head of state of a republic. These powers differ from those, in particular insofar that the position is not to be filled for a specified period and its external dignity is higher. These differences, however, do not affect the heart

Buza⁴⁶). Adolf Merkl was, however, the one who formulated the most eloquent opinion expressly discussing this issue in the lead article of the 1 March 1925 issue of *Jogtudományi Közlöny*. His conclusion was the following:

“A forward-looking political eye can already see the outlines of a kingdom, the legal eye, which can only direct its sight to the legal regulations in force, sees nothing other than the republic. [...] Nevertheless, the current Hungarian state is still a republic where the designation as »királyság« (kingdom) is in contradiction with the provisional constitution.”⁴⁷

This means that we find strong republican features in the *de facto* situation. And this gives rise to the question whether the *de jure* and the *de facto* situation can be separated. *Can the system of government be kingdom even if a dogmatic analysis of the state organisation leads to a republic?*

The answer rests on traditions. If they are strong, they can override dogmatic reasoning.

6 Specification of the national coat of arms (1920)

Decree 2394/1920. ME. settled the issue of the coat of arms together with the system of government. According to paragraph (5) of the decree:

of the matter.” Polner Ödön: A kormányzói jogkör kiterjesztésének kérdése. In: *Magyar Jogi Szemle* 1920/3, 97.

⁴⁶ László Buza held the following opinion: “Hungary’s system of government and its government reflect just the actual state of affairs today. The country is a republic; legally, however, it is a monarchy and it shall remain a monarchy so long as the competent legislator - the national assembly to be convened - does not change the system of government.” Buza László: A királyválasztás joga. In: *Magyar Jogi Szemle* 1920/2, 84.

⁴⁷ Merkl Adolf: A mai Magyarország államformájának kérdéséről. In: *Jogtudományi Közlöny* 1925/5, 35.

“The legal provisions according to which the Holy Crown shall be applied on the coat of arms of the Hungarian state as the symbol of the sovereignty of the Hungarian state shall remain in force.”

It is essential that the decree specifies the Holy Crown not as a mediator of the system of government but as a symbol of the sovereignty of the Hungarian state. The phrase “*The legal provisions shall remain in force*” refers to the fact that the government drew the same conclusion as in the case of the system of government: if Act I of 1920 declared the measures taken during the period of the people’s republic null and void, then that should hold also for Károlyi’s coat of arms decree adopted at the end of November 1918. The coat of arms with the crown shall not be used because the system of government is kingdom, but because that was the national coat of arms prior to the people’s republic.

7 Epilogue

In the title of the study, I promised to examine the impact of Trianon on public law traditions. In relation to this, I attempted to verify some assumptions already in the Prologue. Referring to Kossuth, the point of departure was that a liquidation of the traditions linked to the era of monarchy was not necessarily concomitant with a change in the system of government (the introduction of the republic). A break with the past is not necessarily a constitutional consequence, it is merely a momentary political decision. In 1918, the break with the past was rather motivated by the anger against the monarch because of the lost war, a gesture towards the victorious powers and hope for better peace conditions than any revulsion against the public law setup prevailing till then.

The political decisions sweeping away the past were born with the People’s Resolution envisaging the proclamation of a new

constitution. When, however, work had to begin on the preparation of the constitution both the ministry and legal science sank into a state of paralysis. We could read many declamations on the urgent need for revolutionary changes, but nobody actually drafted the text of the constitution. Even the only available study (Emil Benárd) discussed that one must not fully break with the historical constitution. Some of its parts had to be retained, while some of its parts had to be amended. If the historical constitution was to be supplemented with new acts as in April 1848, then that could be well implemented in terms of legislative technique. If they wanted to draw up a codified constitution, then the parts retained from the historical constitution had to be put on paper, clearly delineating them. And that was a major stumbling block. If we liquidate everything from the past as done by the Council Republic, it is easy to write a constitution, particularly in a dictatorship. Whoever picks up a pen can write whatever he thinks fit. It is, however, virtually impossible to incorporate the historical constitution in writing without debate. Presumably that is why nobody tried.

To return to the question posed in the title, in what way Trianon impacted public law traditions, the answer we can give is that it reinforced them to an extraordinary extent. A major part of the public expected the revolution and the republic to safeguard the territorial integrity of the country. When that failed, disappointment in the revolution prevailed. Trianon was no longer a direct consequence of the lost war, but that of the failed revolutions. At least a major part of the country's population thought so. Thus, Trianon induced those wishing to break with traditions to take a back seat. This was manifested best in the system of government, which is why I emphasised it so much. In 1920, it was thought that the institution of the governor was only for a transitory period as the royal throne would be filled in the foreseeable future. This, however, did not take place, because of which legal dogma exerted increasing pressure on the system of government as the time passed.⁴⁸ The state setup was *de facto* republican, but then why the

⁴⁸ Uncertainties about dogma were most thoroughly summarised by Gábor Schweitzer. Schweitzer Gábor: Közjogi provizórium, jogfolytonosság, új közjogi irány – A két világháború közötti magyarországi alkotmányjog-tudomány vázlata.

system of government was *de jure* kingdom. The reason was that they really strongly insisted on public law traditions because of Trianon. It was felt that it served the restoration of the country's territorial integrity essentially better than a new public law setup breaking with the past.

Bibliography

- Angyal Pál: Büntető jogszabályaink és a Magyar Népköztársaság. In: *Jogtudományi Közlöny* 1918/49, 50, 51, 1919/1, 2, 8.
- Benárd Emil: A Magyar Népköztársaság alkotmánya. In: *Jogállam* 1919/1-2.
- Buza László: A királyválasztás joga. In: *Magyar Jogi Szemle* 1920/2.
- Csekey István: A kormányzó és jogköre. In: *Magyar Jogi Szemle* 1920/5.
- Dubben, Karin: *Die Privatentwürfe zur Weimarer Verfassung – zwischen Konservatismus und Innovation*. Berlin: Logos. 2009.
- Egyed István: *A mi alkotmányunk*. Budapest: Magyar Szemle Társaság. 1943.
- Fenske, Hans: Nichtamtliche Verfassungsentwürfe 1918/1919. In: *Archiv des öffentlichen Rechts* 121/1996.
- Kossuth Lajos: Alkotmányjavaslat (1851. április 25. – későbbi módosításokkal és javításokkal), <http://mek.niif.hu/04800/04882/html/szabadku0167.html>, Downloaded: 08.12.2020.
- Láday István: Az igazságszolgáltatás demokratizálása. In: *Jogtudományi Közlöny* 1918/46, 47, 49.
- Merkl Adolf: A mai Magyarország államformájának kérdéséről. In: *Jogtudományi Közlöny* 1925/5.
- Molnár Kálmán: *Magyar közjog*. Pécs: Danubia. 1926.
- Morus Junior: Forradalmi jogalkotás. In: *Jogtudományi Közlöny* 1919/6.
- Polner Ödön: A kormányzói jogkör kiterjesztésének kérdése. In: *Magyar Jogi Szemle* 1920/3.
- Preuß, Hugo: *Das Verfassungswerk von Weimar*. Herausgegeben, eingeleitet und erläutert von Lehnert, Detlef, Müller, Christoph, Schefold, Dian. Heidelberg: Mohr Siebeck. 2015.
- Rosnyai Dávid: A jogtudomány első feladata a forradalom után. In: *Jogtudományi Közlöny* 1918/46.
- Ruszoly József: Az első nemzetgyűlési választások előzményeihez. In: Ruszoly József: *Alkotmánytörténeti tanulmányok 1*. Szeged: JATE Kiadó. 1991.
- Schweitzer Gábor: Közjogi provizórium, jogfolytonosság, új közjogi irány – A két világháború közötti magyarországi alkotmányjog-tudomány vázlat. In: Schweitzer Gábor (ed.): *A magyar királyi köztársaságtól a Magyar Köztársaságig – Közjog és tudománytörténeti tanulmányok*. Pécs: Publicon. 2017.

Stipta István: Kossuth Lajos 1859-es alkotmánykonceptiója In: *Jogtudományi Közlöny* 1995/1.

Stipta István: Kossuth Lajos önkormányzat-konceptiója. In: Balogh Judit (ed.): *Európai Magyarországot! Kossuth Lajos és a modern állam koncepciója*. Debrecen: DE-ÁJK. 2004.

Szladits Károly: A jogrendszer átalakulása. In: *Jogtudományi Közlöny* 1918/51.

Vámbéry Ruzstem: Forradalom. In: *Jogtudományi Közlöny* 1918/44–45.

Varga Zs. András: Történeti alkotmányunk vívmányai az Alaptörvény kógens rendelkezéseiben. In: *Iustum Aequum Salutare* 2016/4.

*Barna Bodó**

BETWEEN YESTERDAY AND TOMORROW - WHAT HAPPENED TO THE MEMORIALS IN BANAT AFTER 1918

1 Motivation

Living in a minority group inevitably means that the minority members must face the perverse situation that they may express their important views only to themselves, to their own public. It comes from the fact that the majority fails to pay heed to it, the texts written by minority members are not published – they ignore what we want to say. The Hungarian people living in Transylvania have a lot to say in connection with 1918, however, it is not clear what message can be successfully conveyed. In light of it, it can be regarded as a positive action that the Association for Serbians living in Romaina staged a conference in Timisoara to mark the centenary of the Alba Iulia grand assembly that had first proclaimed the wish for the Romanian unification and they invited not only Serbian lecturers, but also Romanian, German and Hungarian presenters, too. It provided a perfect opportunity to choose a topic that is not a Hungarian opinion or evaluation of the situation, but factology. It must be important for every community to show the facts and analyse the emerging picture. The topic is apt for the forum: it is not an exclusively Hungarian, but a common interest for Germans/Swabish, Romanians and Serbians to see how the Roman authorities approached the memorials in Banat, rather, how many statues, plaques and monuments fell into prey to the intolerance of the changing times in Banat since 1918 and how it happened. In this particular case, I was filled with confidence for two reasons: I was finally listened to, furthermore, the press might provide wide audience. This latter did

* Retired docent, honorary professor - Sapientia EMTE, Faculty of Kolozsvár / Cluj-Napolca, bodobarna1@gmail.com.

not come up to my expectations, though, my presentation triggered an interesting debate on the spot.

2 Fate of the memorials

To different extent, but every participant can be regarded as the loser of the Central-European border changes taking place after Trianon. The countries that lost territories are clearly losers, however, in the long run, the territory-winning countries became losers, too. Losers, as they were faced with cultural, legal, social and economic problems attached to the accepted (?) people living in the acquired land that would have emerged even if they had not drawn the long bow to mask the real ethnic situation in these lands in the Palace of Trianon and other lobby places in order to gain even more land. What could these Romanian politicians be thinking of as they fought a battle in Paris and other places? Did they really suppose that the original ethnic peoples of the acquired land would simply vanish into thin air or – would they simply be swept away from their homeland? What practices they chose is not the subject matter of this essay, however, the fact that the Central-European situation was adversely affected and became much worse than before from ethnicity aspect after Trianon reorganisation is well-documented via the political history of this territory. Victory poses a problem for most countries (later dissolved or still unified) in this territory as these countries seem to be unable or reluctant to provide conditions required for ensuring normality and ethnical peace.

The fate of the public memorials, statues, plaques and monuments serves as a testimony to support the above statement, along with policies, impatient measures, ruthless declarations and representations totally ignoring the other party. This issue had continually to be addressed, even where the local people (the original local community) did not need any intervention, in addition, they definitely insisted on their existing memorials. Our villages and cities have changed, as the new political system, the new power interferes (interfered) into the ever-forming

picture of the settlements. The new order replaced, vanished public art, pulled down monuments, divided the structure of the squares so that they could demolish the relationship between the square and its environment that represented a kind of identity (although unfamiliar for them). It tells a lot that they destroyed not only Hungarian historic memorials, but they also devastated monuments with religious or significant literary reference. In their letter written in 1921, the Hungarian Academy of Sciences called more academies of sciences worldwide to give assistance in establishing some – international-protection for artistic works threatened to be attacked. The Hungarian heritage protection authority asked the great powers to send an expert commission to register the cases of cultural vandalism.

Following changing imperium, several works of great importance were written about the memorials destroyed and vanished in Transylvania.¹ The first may have been prepared by Ferenc Olay² who stated:

„The successor states bear a grudge against statues depicting the Hungarian Revolution and War of Independence of 1848-49, monuments of Kossuth and the millennium and they ruthlessly demolish them. Brutalities committed by the Romanians and the Serbs are dwarfed by the Czechs³ that (although culturally more developed than the former ones) caused much more damage and by heading the line of vandals, they pulled down far the most memorials in Upper Hungary.”

Nonetheless, Olay registers the destruction and mutilation of 15 statues and monuments in the territory of the current counties that constitute Banat – and what is the subject of this analysis.

¹ Under the term Transylvania, I do not mean the historical Transylvania but the territories annexed to Romania after Trianon which used to be parts of Hungary: Partium and Banat, too.

² Olay Ferenc: A magyar emlékművek sorsa az elszakított területeken. In: *Budapesti Szemle* 1930/626–628, 348–385.

³ Now it is reasonable to add: Czech and Slovakian people.

It is worth paying special attention to the work of Jenő Murádin entitled “The wounded statue”,⁴ which has been the most complete collection of public artifacts destroyed in Transylvania ever since. He documents the violation or disappearance of 19 memorials in the Banat counties (Arad, Caras-Severin and Timis). Other works showing even losses are the followings: Károly Balázs collected the postcard depiction of memorials destroyed in the successor states.⁵ Important sources are the book of János Ujj entitled Memorials and monuments in Arad county,⁶ and the memorial certificate collection of Péter Puskel.⁷ This topic is addressed in the book written by Gyula Dávid and Zoltán Veress on the memorials outside Hungary.⁸ The book entitled Memorials in Temesköz (2008) written by Károly Vicze from Timisoara,⁹ whereas the monography written by János Szekernyés does the same for the historic Banat, that is, not only in the Romanian part, but also in Serbia and Hungary.¹⁰ In his new book¹¹ János Ujj presents the WWI memorials in Arad and Arad county.¹² Zoltán Csallóközi makes a compilation for the memorial-vandalism raged by nationalistic anger and beyond-the-border communist dictatorships.¹³ It is inevitable to

⁴ Murádin Jenő: *A megsebzett szobor*. Kolozsvár: Kriterion Könyvkiadó. 2008.

⁵ Balázs Károly (összeáll.): *Elpusztított emlékműveink: az utódállamokban elpusztított vagy megrongált emlékműveink és szobraink képeslapokon*. Budapest: Notesz+ Kft. 1997.

⁶ Ujj János: *Emlékhelyek és emlékművek Arad megyében*. Arad: Alma Mater Alapítvány. 2003.

⁷ Puskel Péter: *Emléklapok a régi Aradról (1885–1945)*. Arad: 2005.

⁸ Dávid Gyula – Veress Zoltán (szerk.): *Jelképes jelenléteink. Emlékhelyek – extra Hungariam. Határtalan Hazában 5*. Budapest-Kolozsvár-Stockholm: Erdélyi Könyv Egylet. 2007.

⁹ Vicze Károly (összeáll.): *Temesközi emlékhelyek*. Temesvár: Szórvány Alapítvány – Marineasa Kiadó. 2008.

¹⁰ Szekernyés János: *A magyarság emlékjelei a Bánságban – Semne evocatoare ale maghiarimii în Banat – Evidence of Hungarian Presence in the Banat*. Temesvár: HangArt könyvek. 2013.

¹¹ Ujj János: *Első világháborús emlékművek Aradon és Arad megyében*. Arad: Szabadság-szobor Egyesület. 2014.

¹² There are other works written about public statues (eg. Oláh Ilona: *Emlékek és szobrok*. Szatmárnémeti: Profundis. 2006.), but I refer to them only if they were subject to vandalism.

¹³ Csallóközi Zoltán: *Koszorú. Lakitelek: Antológia* Kiadó. 2020.

mention the extraordinary analysis elaborated by Albert Zsolt Jakab about the memorials in Cluj-Napoca¹⁴ as he significantly contributed to the theoretical approach of this issue, even if he did not concern Banat.

It would be important to be aware of the opinion of the other, dominant party in connection with the intolerance of the memorials, however, we could only refer to newspaper articles and it does not constitute the part of this essay. Regarding this topic, I can cite a single Romanian author, Virgiliu Z. Teodorescu museologist from Bucharest, who concerned the possible replacement of Roman memorials on public places of Transylvanian cities (Targu Mures, Alba Iulia) and its public integration. He devoted a lecture held on a Bucharest conference in 2006 to the question of public statues and memorials. Later on, this lecture was published and the title awarded to it¹⁵ is also suggestive: *The public memorial as the symbol of a nation's identity (Monumentul de for public, carte de vizita a identitatii unui popor)*. He refers to the official standpoint: a decision was made in 1918 (presumably by the government) to remove all the symbols from the public places that fail to comply with the Romanian history and emotional makeup.¹⁶ The question arises whether it is merely a misspelling, or the Bucharest decision had been made well before the Trianon verdict. All that we can say for sure is that the decision opened up a way for a process aiming at restructuring public places in Transylvanian cities. This was the time when the memorials of the Romanian history and culture appeared – taking the place of the former (Hungarian) memorials in many cases, and sometimes, resulting in their mutilation.¹⁷ According to Teodorescu,

¹⁴ Jakab Albert Zsolt: *Emlékállítás és emlékezési gyakorlat. A kulturális emlékezet reprezentációi Kolozsváron*. Kolozsvár: Kriza János Néprajzi Társaság – Nemzeti Kisebbségkutató Intézet. 2012.

¹⁵ Teodorescu, Virgiliu Z. *Monumentul de for public, carte de vizită a identității unui popor*. In: Șerbu, Milana – Gheorghe, Constantin (eds.): *Globalizare și identitate națională*. București: Editura MAI, 2006.

¹⁶ Teodorescu 2006, *i.m.* 182.

¹⁷ It clearly shows the prejudice of the author, hogy Sissi is consequently named as the Hungarian queen – instead of empress. He describes that it was soon after the erection of the Elisabeth statue in Caransabes (1917) that the local Romanian

the Romanian government offered the demolished monuments to the neighbouring countries in letter. The most concerned state was Hungary,¹⁸ and in the author's opinion, the Hungarian government declined to react and suggest negotiations. Teodorescu alleges in his work that following the Vienna decision came the Hungarian „road-roller” in North-Transylvania and destroyed the Romanian memorials erected in recent times one by one. He cites two cases: the memorials to commemorate the WW victims in Targu Lapus and Seini. He suggests in his writing that the Hungarian power kept destroying Romanian memorials, whereas the Romanian government allowed for the take-over of memorials incompatible with the then existing leadership.

3 Memory, politics, message

Memory is a widely-researched field of our age, besides psychology, even anthropology, political sciences, sociology and historical sciences deal with it. At first sight, memory seems to be an expressly inner and individual process, as if it had nothing to do with common social and cultural memory. A person always remembers in the (given) social framework. In contrast, the question that arises concerning memory and collective memory is absolutely community-related: what shall a community not forget? What would happen in a society if it did not remember anything and had to live without memories? According

population protested against it, so, it had to be uninstalled. Here, it is important to note that the statue at issue was unveiled in 1901. Press releases from the time prove the contrary of the Teodorescu statement, Sissi often visited South-Banat, Bath of Hercules and Bath of Marilla, next to Oravita to be treated towards the end of her life. She liked this countryside and she was popular with the local citizens. This may be the underlying reason why presumably most Elisabeth statues were installed here, in this county, after her death.

¹⁸ According to Teodorescu, Poland applied for the Bem statue uninstalled in Targu Mures and it was taken away. In the book of Jenő Murádin (Murádin 2008, *i.m.*) we can read that on the 27th March, 1919, the statue was pulled down by unknown persons, then it was damaged at the instruction of mayor Dandea in 1928, its pieces were delivered to Poland by train. However, the statue never reached its destination and the Polish state protested against its mutilation in a diplomatic way.

to Assmann,¹⁹ memory can be considered as an umbrella term and entails all the conscious actions relating to the past. Communicative memory is a living thing, it is tied to adaptability to a community and ritual forms, that is, it is an oral recollection practise. On the other hand, cultural memory is a mode to bear in mind the past in an overadmired and/or overacademised way, manifested in writing or in other tangible form such as visual representation or establishment of institutions (museums and archives).

Collective memory refers to past events that a person could not experience directly as their actual timing goes back prior to his birth. It is the society that turns events into memory that were not directly experienced by a person, Halbwachs says.²⁰ Forming a memory commences in the family as memories are transmitted from one generation to another. Some of them need to be reconstructed as we are not able to turn them animated based on the stories about them. Here comes social framework acting as supervisory, operational asset of memory and it provides a particular social consensus by regulating memory event. A person who grows up as a member of different social groups tends to memorize only the events that had significance for the group or for him/her. A person, however, is the depositor of memory simultaneously stemming from more social groups, more collective entities. It is obvious that common memory (even if not identical) may establish social groups by creating the impression that they adhere to one another. It highlights the fact that common experience may be able to result in group organisation, and the experience of togetherness is provided by common past experience.²¹ The expression of memory community defined by Jan Assmann applies to those who share experience, but the collective experience forming itself in the community does not mean identical, homogenous experiences.

¹⁹ Assmann, Jan: *A kulturális emlékezet. Írás, emlékezés és politikai identitás a korai magas kultúrákban*. Budapest: Atlantisz Kiadó. 1999.

²⁰ Halbwachs, Maurice: *A kollektív emlékezet*. In: Felkai Gábor – Némédi Dénes – Somlai Péter (szerk.): *Szociológiai irányzatok a XX. század elejéig*. Budapest: Új Mandátum Kiadó. 2002, 303–433.

²¹ Jakab 2012 *i.m.*

In fact, the subjects of memory are connected to a given time and place, a particular group, and the third condition is reconstructivity, which means that memory keeps only those parts of the past to which the given society attaches high value and, in a form, defined by the person and the society. This process has an impact on the future, too: it is not only the past that memory is able to reconstruct, but future also.

It is obvious that common memory (even if not identical) may establish social groups by creating the impression that they adhere to one another. It highlights the fact that common experience may be able to result in group organisation, and the experience of togetherness is provided by common past come into play.²²

Émile Durkheim regarded social bonds as having mental-moral nature and stated that collective knowledge is stored in symbols of material importance from the point of view of the continuity of social memory.²³ The tenet of Maurice Halbwachs declares that events, persons or places must take a concrete, tangible form in order that „truth could become solid” and it could consolidate in the memory of a certain group. (cites Jakab 2012).²⁴

Assmann thinks that the guarantee of remaining unchanged lies in the fact that our knowledge about the past strives to become visible and physical. Memory needs locations and tends to localise the events.²⁵

Our approach to space underwent a significant change at the end of the last century. This change was partly triggered by Henri Lefebvre who induced a sort of program with his book ²⁶ (*La production de l'espace* – The production of space) in 1974. He contends that space is far from being a bowl that can be filled with anything and an external capability, rather, it is a social construction, a second nature created by people. Moreover, if space is a social construction based on social production

²² Halbwachs 2002, *i.m.*

²³ Durkheim, Émile: *A társadalmi tények magyarázatához*. Budapest: Közgazdasági és Jogi Könyvkiadó. 1978.

²⁴ Jakab 2012, *i.m.* 26.

²⁵ Assmann 1999, *i.m.*

²⁶ Lefebvre, Henri: *The Production of Space*. Oxford: Basil Blackwell, 1991 [francia eredeti 1974].

of values and meanings, then not only does it influence usage of space and space perception but space also contains social relations in this sense, it is their result, furthermore, it forms, maintains and monitors space. Foucault added power to this theory: heterogenous, local power technics determine the particular justice regimes and it results in the fact that spaces must be interpreted in the context of power and knowledge.²⁷ In view of it, space is inherently complex and controversial as space is modified by social relations on the one hand, and, on the other hand, space itself is also capable of creating social relations. As a result, space is a forum for (re)structuring social life.

Gábor Gyáni defines collective memory as past events embodied in traditions and for many centuries it meant the dominant if not sole method of recollecting the past.²⁸ Prior to the XIX. century, there was no general, coherent knowledge widely accepted as legitimate about the past, it can be treated as current national historic knowledge. The new mode of collective memory is mass culture and is associated with political discourse.

Until the second half of the XIX. century, history used to be predominantly a political activity, in the widest possible sense. According to Nora, history concerned the question of origin by means of myths, it made declarations about foundings and power legitimacy, it contoured graceful genealogies, yielded lifestyle models and provided code of conduct for the powerful.²⁹ It is true that history of the faded past can be directly beneficial for the present, in the last 100 years the political elite exploited the part of the past which could be made actual, in addition, non-state-related institutions (church, civil social movements) also played the role of those who can reveal the real past. Nowadays, however, people begin to create a more active relationship with the common past that they regard as their own. Gábor Gyáni contends that this political instrumentalisation of history can mostly

²⁷ Foucault, Michel: A hatalom mikrofizikája. In uő: *Nyelv a végtelenhez. Tanulmányok, előadások, beszélgetések*. Debrecen: Latin Betűk Alapítvány Kiadó. 2000 [1976], 307–330.

²⁸ Gyáni Gábor: *A történelem, mint emlék(mű)*. Budapest: Kalligram Kiadó. 2016.

²⁹ Nora, Pierre: *Emlékezet és történelem között. Válogatott tanulmányok*. Budapest: Napvilág Kiadó. 2009.

be named as historical policy and it also means that a state's identity policy becomes more and more integrated into the historians' way of thinking. Academic writings pay special attention to the issue of memory policy.

Memory policy is a real definition and practise: it exists as basic attribute of states having a nation-building past even if it plays a passive role, that is, it reproduces memory based on existing patterns. It is obvious that memory policy is not a state policy, but it is able to influence collective knowledge in wide history horizon with the help of policy conceptions and measures and the consent of school books. It does have a strong impact on our picture of the neighbouring peoples (in the particular case, on the collective Romanian's view of the Hungarians).

State memory policy badly needs the historicized self-imagination of a national community, which results in the resurrection of national way of speech, a sort of second blossoming. History education at schools is an important tool for state history politics, history as a subject completely serves the ambitions of state memory policy.³⁰ We can experience in more and more countries that the state has declared its authority to judge historical events and hereby it can regulate what historical events and in which explanation can make their way into spheres under their auspices (school, public media, public political issues, identity policy), that is, states tend to approach history by deciding on their (political) benefit.

At a first glance, institutional memory policy may cover education- and schoolbook policy. Communicative memory policy is determined by state- and/or local government activity which ultimately communicates with the target group and hereby is in a position to affect public memory. It is not only the onetime political acts interpreted in a wide sense that belongs to this circle, but also the names of public places (street names, names of public institutes, statues), the national holidays, anniversaries, memorial days, whose content must be communicated to the public time after time. As a result, their content,

³⁰ Gyáni 2016, *i.m.*

the message attached to them may subsequently change, moreover, they may cease to play a part in creating memory due to the passive behaviour of the public.

In their revolutionary work, Hobsbawm and Renger assert: political memory is an artificial construction resulting in the fact that it is the captive, the descendant and also the victim of the interests of the existing political class.³¹ Discovery of traditions coincides with the destruction and weakening of social patterns caused by fast transformation of a society that served as a basis for former traditions. In fact, they are formalization and ritualization processes characterized by reference to the past. Political usage of history is usually supported by political propaganda in its often especially active and changeable form. It is made even more interesting by a controversial gap found between the ever-changing modern world and the intention of keeping some part of the social life unchanged and intact.

The rituals of a national holiday represent the exploitation of history for political purposes. Other important elements are erecting memorials, school education, a museum as public history pedagogy, rhetorics of naming public places, and several forms of historical symbol creation.

Canon is a form of tradition that has the highest obligatory power as for its content, and the highest rigidity as for its form. It is forbidden to add or deduct or modify something about it, Assmann says.³² Other meanings of canon are: standard, line, criterion, pattern, model, rule or norm. A determining representation of canonized memory is the public memorial, it is basically an attempt from the existing power to organize memory. A memorial is both a tool for the state to appropriate memory and a communicational space, too. The aim is to address as many people as possible. Public memorials convey the message that their subjects or models represent a common value for everyone – this is social canon. Memorials are erected to continuously remind us; thus, they are capable of expressing other affiliated matters, among them,

³¹ Hobsbawm, Eric J. – Renger, Terence (eds.): *The Invention of Tradition*. Cambridge: Cambridge University Press. 1983.

³² Assmann 1999, *i.m.* 103.

hero cult. Their place is where public ceremonies, marches, assemblies and historic speeches may be staged – forum for hero cult.³³

János Potó researched the „places of memory” from the point of view of collaboration between political power and public thinking, in connection with memorials erected and destroyed after 1945. The principal question of his work ³⁴ is as follows: In which way is our approach to history impacted by public memorials? According to him, the basic feature of public sculptures is that they are public as they stand on streets, squares, always to the fore. This publicity is inseparable from the fact that the memorials that apparently represent only historical, but both historical and political values in reality are closely connected to the existing political power. It is a basic need for a political power to control everything that gain social publicity. Every memorial symbolises the political situation prevailing at the time of its placement. Their function is not only to factually represent the displayed historical event, but – in a symbolic form – to convey a more complex, universal message. This generalising symbolism is what makes memorials suitable for serving as propaganda tools by ensuring that the symbolic content matches the then prevailing political ideology. Therefore, memorials only pretend to be subjects of historic cult, however, in reality, they are political symbols.

János Potó distinguishes two types of memorials: some of them aim to preserve memories, whereas some others are political memorials. The former ones, namely those which want to preserve memories, aim at commemorating persons, events or notions that have coherent values in the national memory. Their primary function is to preserve traditions and form a forum for remembering them. The latter ones, the political memorials, normally refer to an event, a person or an idea that has emerged recently, something or someone that can strengthen

³³ Homár Zoltán: *Első világháborús emlékművek Szabolcs és Szatmár vármegyékben a két világháború között (1918–1938)*. Doctoral dissertation. Debrecen: 2019, 34.

³⁴ Potó János: *Emlékművek, politika, közgondolkodás: Budapest köztéri emlékművei, 1945–1949. Így épült a Sztálin-szobor, 1949–1953*. Budapest: MTA Történettudományi Intézet. 1989.

and legitimize the existing political power or represent its purposes. They are places to refresh memories.³⁵

Changing a system and/or a power also means that the new power strives to regulate their newly-acquired space according to their own ideology. As more changes of this kind took place in the XX. century in Central-Europe, the historians and anthropologists analyse the way how the new power conquers the space in different ages. As for Hungarians, Gábor Gyáni analysed it in the age of dualism, Vilmos Voigt dealt with the history of 1st of May, Csilla Markója researched the setting of the council republic, Boldizsár Vörös studied the way how Miklós Horthy symbolically conquered space, whereas Gergely Bödök revealed the power demonstrations of the dictatorship of the proletariat. Albert Zsolt Jakab elaborated the representation of cultural memory of Kolozsvár in his outstanding work³⁶ and contoured how a new power can restructure space inside and outside in case of changing imperium.³⁷

4 Formerly existing memorials and monuments in Banat

The only common feature of memorials taken into consideration from this point of view is territoriality, i.e. they all were erected in this territory at central or local initiation. Most of the vanished memorials are statues, but some of them are monuments, memorial tablets, or other kinds of memorials, e.g. the bench of Ferenc Deák in Bath of Buzias. This analysis is not exhaustive as it does not cover the memorials of inside spaces (with some reasoned exception), that is, gate entrances, inner yards, ceremonial halls, and the mutilated, destroyed memorials in the territory's graveyards.³⁸ Memorials found in the churches and churchyards are worth mentioning as in Banat the

³⁵ Potó János: *Az emlékeztetés helyei – Emlékművek és politika*. Budapest: Osiris Kiadó. 2003, 18.

³⁶ Jakab 2012, *i.m.*

³⁷ I tried to find Romanian analyses in the topic on the web but I did not find any.

³⁸ More notable works address this topic, here I refer to János Ujj and his book of 2014.

Catholic church donated more churches to Greek Catholic and other churches. Memorials commemorating WWI victims should also be catalogued in this territory, similarly to the activity of János Ujj relating to Arad county.³⁹

I have to separate three stages of gathering data. I am mostly interested in the history of Temesköz,⁴⁰ I have been routinely collecting information on it from the press, books that are significant from the point of view of local history. The next stage is studying essays, books, monographies on this topic – most of them are listed in the appendix. Finally, I have managed to meet and discuss with the most well-known local historians, such as János Szekernyés, Ilona Miklósi, János Ujj – Hungarians in Banat, Walter Konschitzky, Erwin Joseg Tigla – German, Ioan Hategan, Victor Neumann – Romanian and Stevan Bugarski, Miodrag Milin – Serbian, who provided me with valuable information and references. There are more databases devoted to this issue, the most useful ones are www.kozterkep.hu and <https://erzsebitszobor.eoldal.hu>, and locally <http://www.dusanbaiki.eu>.

I am going to show the situation categorised in counties.

³⁹ See Ujj 2014, *i.m.*

⁴⁰ I edited and published several local publications, I was (co-)writer in more cases: *Local Identity and Regionalism. /Helyi identitás és regionalizmus/* (szerk., szerző), Temesvár: Szórvány Alapítvány – Helicon. 1998; *Monument 2000, Patrimoniu cultural și responsabilitate civică. /Kulturális örökség és civil felelősség/* (szerk.), Temesvár: Marineasa Kiadó. 2000; *Hagyományőrzés Temes megyében.* (szerk., szerző), Temesvár: Helyzet – Jel – Kép Könyvek, Szórvány Alapítvány – Marineasa Kiadó. 2002; *Delesega Gyula: Temesvári kalauz.* (szerk., kiadó), Temesvár: Helyzet – Kép – Jel Könyvek, Szórvány Alapítvány – Marineasa Kiadó. 2003, 2005, 2018; *Honismereti stratégia.* (szerk., szerző), Temesvár: Szórvány Alapítvány – Marineasa Kiadó 2006; *Ghid cronologic pt. orașe bănățene. /Bánsági városok kronológiája. I. kötet/* (szerk., szerző), Temesvár: Szórvány Alapítvány – Marineasa Kiadó. 2007; *Cronologia orașelor bănățene. /Bánsági városok kronológiája. II. kötet/* (szerk., szerző), Temesvár: Szórvány Alapítvány – Marineasa Kiadó. 2009; *Bánsági Magyar Panteon – Panteon Maghiar Bănățean – Hungarian Pantheon from Banat.* (szerk., szerző), I/II/III. Temesvár: Marineasa Kiadó. 2009–2011–2014.

4.1 Arad county

I am going to quote from the book of János Ujj:

„Béla Barabás, the last Hungarian sheriff of Arad, the city's representative in the Hungarian parliament, and then in the Romanian parliament, wrote in his autobiographical memoir entitled *My Memoirs* in 1929: 'The mayor of the city had a record prepared about all the Hungarian-related statues, memorial tablets at the end of December, 1922. Altogether, they collected 18 of them, among them the statues of the martyrs and Kossuth. The engineering department was instructed to remove most of them to the Cultural Palace.' Subsequently, upon instruction from Robu Ioan mayor, 16 public memorials were removed within a short period of time, then in the upcoming decade, each and every of them, with the exception of the Holy Trinity statue, the Munkácsy memorial tablet and the statue of St. John of Nepomuk."⁴¹

The Hungarian community living in Arad has lost more memorials than that. I am going to list them, first the ones used to be found in Arad city, then those from the whole county. I am not going to mention the existing memorials stemming from the age of monarchy (irrespective of their present condition) and those which were unveiled after 1990.⁴²

1-2-3. *Arad*. Memorial plaques of the battle of Arad of 1849 (3)

Historical background: More memorials commemorated the more remarkable scenes of the February battle of Arad of 1849. One of them was found in the entrance gate of Domány-house built on the site of the former City Hall on Liberty square, the second was placed on the street -side wall and on the wall in the garden, in addition, on its

⁴¹ Ujj 2003, *i.m.* 9.

⁴² I do not mention the statues that have been stolen recently, the crime of which is categorised as noble metal theft.

wall in Pesti street (later renamed Kossuth and then Mărășești).⁴³ The militiamen and the private soldiers led by major Sándor Asztalos and Dániel Boczkó government commissioner pushed back the common attack of the Austrian troops that broke out from the castle and the invading Serbian troops.⁴⁴

Place of inauguration: on Liberty square (now Avram Iancu), at the beginning of Asztalos Sándor square (now Tribunul Dobra street), on the wall of the school in Kossuth (now Mărășești) street.

Condition: they ceased to exist.

4. Arad. *Memorial tablet of the revolutionary parliamentary assembly of 1849 of Arad*

Historical background: The Hungarian revolutionary parliament held its last session presided by Kossuth in the City Hall on 11th August, 1849. It happened here that the news of the defeat in Timisoara was broken to the participating members. After the session, the dissolved assembly and most of the government members fled abroad, and, in the meantime, Artúr Görgey, who was granted absolute power, began talks about surrender with the commandership of the Russian troops.

Description: Memorial tablet – exact texting is unknown.

Place of inauguration: on the wall of Domány-house build on the site of the former City Hall.

Present condition, Afterlife: it does not exist anymore.

5. Arad. *Baross-fountain*

Historical background: Nationalisation of most railroads is associated with Gábor Baross, along with the establishment of the railroad network system, remodelling of the Iron Gate and reformation of the Hungarian news release.

⁴³ Ujj 2003, i.m.

⁴⁴ I give the source where it is important.

Description: the wrought-iron memorial fountain placed on a pink marble pedestral marked the spot where Gábor Baross minister had held a rousing opening speech at the opening of the national exhibition in 1890.

Condition: it ceased to exist.

6. Arad. Grieving Arad.

Historical background: it is a spatial sculpture originally planned as a sepulchre and evokes the memory of heroes killed in street fights in Arad in 1849.

Description: the artifact made of white marble from Carrara displays a female figure kneeling, wearing the turrigera of the city and she places a wreath in memory of the town's saviours of 1849.

Place and time of inauguration: 8th of February, 1873, (11th of January, according to Murádin), at the end of the former parade.

Afterlife, condition: first, it was replaced to the old cemetery, then, after its cessation, it was moved to the storeroom of the county museum.

7. Arad. Béni Boros statue

Historical background: Béni Boros was a remarkable railroad builder owning to which a square was named after him in his native town, i.e. in Arad (now the junction at Regele Ferdinand and Republicii streets). Miklós Krenner, the outstanding publicist, refers to the fact in his work entitled *Townscapes from Transylvania* that even a bust was placed in his memory in Arad.

Afterlife: the fate of the bust has been unknown so far.⁴⁵

8. Arad. Statue of Áron Chorin

Historical background: in the first half of the XIX. century, the tension between the reformers and the conservatives stretched to the breaking

⁴⁵ Ujj 2003, i.m.

point in the Jewish communities. In the former centuries, they had distanced themselves from the outside world, however, the new age overturned their traditional living. Modernisation of the Jewish tradition emerged first in Germany as more and more people believed that the religious orders needed to be updated. It was not much later that the Hungarian Jewish communities were also faced with the question: should they yield to the new waves or insist on their traditions? One of the reformists' leading figures was Áron Chorin (1766-1844), a rabbi in Arad, who became the Chief Rabbi of the religious community in Arad at the age of 23. He was one of the most accomplished rabbies of his time, author of several religious books, who – openly expressing his objection to the orders of his supervisors – initiated more novelties both in religious and in public life (organ in the synagogue, permission to travel on Saturdays, promotion of handcrafts, termination of religious rituals related to superstitions, etc.).

Description: portrait sculpture, it used to be the only Hungarian Jewish portrait sculpture.

Sculptor: Jakab Guttmann (1815-1858), sculptor.

Time and place of inauguration: 1851, in the Jewish mausoleum on Mosóczy quarter.

Afterlife: it stood there until 1997, when it was stolen by an unknown person.

9. Arad. Statue of Gergely Csiky

Historical background: Gergely Csíksomlyói Csiky (1842-1891) was a dramatist, literary translator, the vice-secretary of Kisfaludy Association, correspondent of the Hungarian Academy of Sciences. He accomplished his secondary studies in the secondary grammar school in Arad, then continued his studies in the Catholic seminary in Timisoara and 2 years later he was referred to the central seminary in Pest. As a novice, literature started to play an even more significant role in his life and he started to write dramas besides his theological studies. From 1870, he contributed to the religious journal Csanád.

Later, he became a teacher at the acting school and a lead dramatist at the National Theatre. He was awarded the title of honorary citizen of Arad in 1881.

Description: bust on high pedestal.

Sculptor: István Philipp (1870-1935), sculptor from Székesfehérvár.

Time and place of inauguration: 1912, in Kossuth park (now bd. Revolutiei 61) opposite the Evangelist church, right next to the statue of Gábor Fábián.

Condition: on 25th of October, 1934, unknown persons pulled it down. The damaged statue was kept in the storeroom of the museum in Arad. Some proposed to reinstall it in the Secondary School named after Gergely Csiky, however, finally a new sculpture by Rudolf Kocsis was unveiled in the school's corridor.

10. Arad. Bust of János Darányi

Historical background: János Darányi (1819-1889) served his country as a ward head physician during the Hungarian Revolution and War of Independence, then he worked as a doctor in Arad. In 1858 he landed the position of head physician of the town, then he ran a private hospital for nearly 20 years. He had outstanding results in gynaecology and face surgery. He provided the newly-graduated physicians with excellent practical conditions in his hospital (Ujj 2003). His statue was ordered by the town.

Description: Bust on high pedestal.

Sculptor: András Tóth (father of Árpád Tóth poet, 1858-1929), sculptor from Debrecen.

Time and place of intallation: 1901, Baross park (now Eminescu park).

Condition: it was destroyed in the 1930's, it was moved to the storeroom of the county museum.

11. Arad. Statue and memorial of Queen Elisabeth

*Historical background:*⁴⁶ the queen can be regarded as one of the most captivating female figures of the XIX. century. Elisabeth Wittelsbach was a modern woman not suitable for any categorisation, yet a persuading and credible person for many. She became empress of Austria at a young age due to her marriage with emperor and king Franz Joseph I., then some years later she became the Queen of Hungary, too. Her tragic death on 10th September, 1898, shook the population of the Monarchy. The Hungarian parliament passed a law that commemorates her, and several memorials were placed to honour the glorified queen all over the country, which promoted the creation of a cult around her figure.

Description: a 110 cm high bust on marble pedestal, which displays the queen in the robe that she wore at the coronation ceremony. The subtly elaborated face gives an insight into the wide range of emotions of the queen.

Sculptors: statue: György Zala (born Mayer, 1858-1937) sculptor from Budapest, memorial: Miklós Seidner.

Time and place of inauguration: 1st of September, 1901, in the garden of the County Hall, in the former park on the site of Hotel Astoria and its parking place.

Condition: after the Peace Treaty of Trianon, the new Romanian power did not lay claim to it, it was destroyed in 1926, subsequently it was moved to the archives of Csanád county. It gathered dust for nearly 50 years in the storeroom of József Attila Museum from 1953. The statue was reinstalled in the museum garden on 31st of October, 1991, in the presence of Otto Habsburg.

12. Arad. Statue of Gábor Fábíán

Historical background: Gábor Fábíán (1795-1877) was a renowned literary translator, representative, member of the Hungarian Academy of

⁴⁶ In case of persons mentioned more times, I provide general information only for the first time, then I provide additional information.

Sciences and the Kisfaludy Association. He earned legal qualification, moved to Arad county and worked as the lawyer of the Bohus family. He was the chairman of the press court set up in Arad in 1848, a member of the ad hoc committee, then the judge at the central regional court. He was forced to flee after Világos. The installation of the bust was initiated by the Kölcsey Association.

Description: bust on high pedestal.

Sculptor: István Philipp (1870-1935), sculptor from Székesfehérvár.

Time and place of inauguration: 1912, in Kossuth park in front of the Evangelist church (now bd. Revolutiei 61).

Condition: it was destroyed by „unknown persons” on 4th of September, 1934. The mayor’s office ordered the damaged statue to be taken to the riding stable next to the Kossuth statue – from where it disappeared.

The bust of Gábor Fábián was unveiled in front of the Reformist church in Arad on 26th of May, 2008, which was created by Rudolf Kocsis sculptor from Arad. The pedestal was prepared by András Dóczi stonemason from Csíkszereda.

13. Arad. *Memorial tablet for Gábor Fábián*

Historical background: see at Fábián statue.

Artist: planned by György Zala (born Mayer, 1858-1937) from Budapest.

Time and place of inauguration: 1885, on the house of Fábián in Kazinczy (now M. Georgescu) street.

Afterlife, Condition: The tablet disappeared without leaving any hint (like tablets of 1848-49 and Vásárhelyi tablet. The Fábián-cult could revive after 1990, but the town council refused to allow the Kölcsey Association to mark the building with a new tablet to commemorate the 100th anniversary of Fábián’s birth. Dénes Ficzy named this house „the most literary” building. However, a new memorial tablet was placed in the entrance hall of the Reformist church on his 200th birth anniversary.

14. Arad. Franz Joseph statue

Historical background: it was erected in memory of the emperor and king to commemorate the 60th anniversary.

Description: bust on high pedestal.

Time and place of inauguration: 2nd of December, 1908, in the yard of the Arad castle.

Afterlife, Condition: Only few visitors could see the statue in the castle regarded as a military object at that time, and it vanished right after the imperium change in 1918. There is no more data about this statue. The marble pedestal stood on its place even in the 1960s.

15. Arad. Statue of a soldier

Historical background: Similar statues displaying a soldier wearing a uniform were unveiled in other places, too, for example in Timisoara. The reason for their installation was to collect donation for the victims of the war. Two physically handicapped soldiers on crutches can be seen next to the statue in the picture taken in Timisoara.

Description: an infantryman with a weapon placed at his feet.

Time and place of inauguration: there is no written document on the delivery and placement of the statue, Péter Puskel, the local historian has knowledge about a single postcard (Puskel 2005). Allegedly, it stood in the churchyard, and later it was moved to the garden of a house in Weitzer János street (now Lucian Blaga).

Present condition: there is no information about it.

16. Arad. Culture House of the Artisans – memorial tablet

Historical background: the memorial tablet unveiled in the foyer of the Culture House of the Artisans in Arad (now National Puppet Theatre), the foundation of which was covered from public donations in 1928, lists the names of the leadership and other artisans living in Arad who contributed to the construction of the imposing building either

financially or with their work. The statue of Gyula Reinhardt, chairman of the Artisan Society, was placed in front of the tablet, which was created by Géza Rubleczky. The statue is now owned by the heirs.⁴⁷

Description: a memorial tablet covering the whole wall, with Hungarian and Romanian text.

Time and place of inauguration: Culture House of Artisans (now Puppet Theatre), 1928.

Artists: Rózsa-brothers.

Condition: it was removed when the house was remodelled (after 1945).

17. Arad. Kossuth-statue

Historical background: Kossuth stayed in Arad in August, 1849. It was as early as the end of the XIX. century that Béla Barabás initiated money collection to enable the erection of a Kossuth-statue. The renowned politician and public figure of Arad was a member of the committee that observed the Paris Universal Exhibition in 1889 and visited the old statesman in Turin. Barabás delivered him a letter written by his father who erected the first memorial funded and initiated by himself, in Veszthely. He also took some earth to Kossuth in an envelope which he had taken from the scene where the martyrs had been executed. Kossuth thanked his thoughtfulness in his response letter and wrote this memorable sentence: „I bend from my window in the direction of Arad, and upon kissing the dear specks of dust, I beg for blessing upon Hungary.”⁴⁸

Description: bronze statue representing Kossuth in full figure, with subordinate persons. As for its size, it may be the most imposing Kossuth-statue.

Artists: Ede Margó (born Morgenstern, 1872-1946), sculptor from Budapest, and Szigfrid Pongrácz (born Popper, 1872-1929), sculptor from Budapest.

⁴⁷ Ujj 2003, *i.m.*

⁴⁸ Puskel 2005, *i.m.*

Time and place of inauguration: 19 September, 1909, in the middle of the former main street (Andrássy street), next to the City Hall. The unveiling ceremony was attended by Ferenc Kossuth, the son of Lajos Kossuth, and. bishop Ioan I, with his full company.

Afterlife: the Romanian authorities initiated its removal in 1919, however, the protest of the civilians persuaded them not to pursue their aim. The subordinate figures of the memorial were slashed by unknown persons with the help of an artillery carriage drawn by 6 horses on the night to 9th March, 1921, as a result,⁴⁹ the authorities planked the statue. Its removal started on 27th July, 1925. Its pieces were first taken to a riding stable, then to an empty plot near the sport field. Subsequently, the Independence-statue was taken to the dungeon of the Arad castle. Much later some fragments of it were seen scattered near a car garage on UTA square before the square was restructured. Moreover, some stones of them were recognized upon laying the way behind the art room at the bank of the lake in city park. Then, they were lost sight.⁵⁰

18. Arad. Gábor Kövér memorial

Historical background: Gábor Kövér (1836-1888) was a real polymath. He played the flute very well and was a member of the Vienna Philharmonic. After arriving home, he designed a lathe, built clocks on more builings in Arad and in the county, he sublimated fruit trees and even composed music. He was elected as a representative of Lippa for a short time. He was the person who planned the city and Baross park on the site of the formerly swampy, deep-lying area. The column was erected to honour his active contribution to restructure the town.⁵¹

Description: column in secession style.

Artist: Gyula Jankó, teacher in Arad.

Place of inauguration: Baross park (now Eminescu).

Afterlife: it disappeared.

⁴⁹ Olay 1930, *i.m.*

⁵⁰ Ujj 2003, *i.m.*

⁵¹ Uo.

19. Arad. *Columns and a memorial at the entrance of the cemetery in Mikelaka*

Historical background: the stone columns at the two sides of the military cemetery's entrance and the memorial were exploded in the 1980s when the cemetery in Micalaca was dissolved. It was the cemetery where Austrian general officer Anton Howiger was also buried, who was the commander of the castle in 1849, at the time of the ad hoc court and the executions.

Description: the turul on the top was to ensure the peace of the heroes.⁵²

Present condition, Afterlife: there are no remains of it.

20. Arad. *Memorial tablet for József Nagy-Sándor*

Historical background: the Arad headquarters of József Nagy-Sándor, the martyr general officer, was marked with a tablet.

Description: the tablet read: „This house was the last headquarters of József Nagy Sándor private soldier between 9 and 12 August, 1849.”

Place of inauguration: the former Óváros Halász, then Thököly Imre (now Cuza Voda) street 3.

Present condition, Afterlife: the tablet was removed by the authorities from the outside facade in 1922, however, the owner of the house preserved it along with a cannon ball taken from the wall of the house. His heir sold the property consisting of more flats to different persons in 1989. The building which stood on street front and was marked with the memorial tablet collapsed due to gas explosion in 1996. One of the owners used the broken memorial as a cover of the cesspit.⁵³

21. Arad. *Statue of St. John of Nepomuk*

Historical background: St. John of Nepomuk is a Czech martyr, patron of the Czech Republic, the guardian angel of bridges, sailors, the seal

⁵² Turul is a mythical Hungarian hawk.

⁵³ Uo.

of confession and the dying. The priest of the Dome of Prague, then general vicar of the archbishop of Prague. He had some conflicts with Wenceslas IV (1378-1419), the Czech king. In line with the traditions, he was the confessor of Queen Sophie. As he kept abiding by the seal of confession, he was captured, tortured and thrown into Moldova river. He was respected in Hungary, too, as he was believed to primarily grant requests concerning rivers and streams.

Description: The St. John statues were mostly carved from simple limestone in a roughly way, repainted several times. Visitors can see only paint stains on the statue in Arad.

Place and time of inauguration: The statue anointed in 1729 originally stood around the place of the current City Hall. It was moved to its present place in 1870 when they started the construction of the current City Hall, at the junction of Batthyány and Révai streets (now Bishopric and Desseanu).

Present condition, Afterlife: an allegedly mentally handicapped person caused damage to it in 1995, then an unknown person broke its head in 1999. The town consented to its renovation and the statue was moved to the entrance hall of the central Roman Catholic church, on the place of the piscina. The sculptor Mihály Takács prepared a new statue made of limestone, it is an outstanding work and replaces the former one in the little park.

22. *Arad. Statue of Liberty*

Historical background: it commemorates the martyrs executed in Arad, the heroes of the revolution. Arad established a statue committee in 1867. Both individuals and associations contributed to the installation of the statue. As for the Hungarian sheriff, a single one, József Man from Maramures donated some money, who was the grandfather of dr. Gyula Maniu, the Romanian prime minister.⁵⁴ A tender was open for the prospective memorial in 1877, which was won by the plan of Adolf Huszár. The town entered into a contract with him in 1883 and

⁵⁴ Olay 1930, *i.m.*

the statue was supposed to be finished by 1888. The plan failed due to the death of the artist. Later, on the advice of the National Hungarian Fine Arts Association, Arad concluded a contract with György Zala sculptor.

Description: the portraits of the 13 martyrs were planned to be placed on the pedestal by Huszár. The central figure of the statue would have been the allegory of Homeland, hemmed by Freedom, Sacrifice, Power and the end catastrophe of the Struggle. However, Zala did not follow the original plan and created an own artistic work. First, the figure of the Rising freedom was prepared in spring 1886, then Ready to fight and Sacrifice in summer 1887, followed by the Dying fighter and the main figure of the group, Hungary. The relief of the 13 martyrs was placed on the pedestal.

Artist: György Zala (born Mayer, 1858-1937), sculptor from Budapest. The pedestal was planned by Albert Schickedanz (1846-1915), architect from Budapest.

Place and time of inauguration: center of Arad, Liberty square (now Avram Iancu), 6th of October, 1890.

Afterlife, Present condition: the idea of removing the statue emerged immediately after Arad had been annexed to Romania. To prevent destruction, the monument was planked in 1923. It was removed finally in 1925, at the order of I. C. Brătianu's government, then it was stored in different places, lastly in the castle ditch. After the agreement between Hungary and Romania, the statue was taken to the yard of the Minorite monastery on 6th of October, 1999. Then started the process of restauration. In 2004, the Romanian government (despite protests from more members of the parliament) consented to the fact that the statue could be reinstalled in the memory park devoted to the Romanian-Hungarian reconciliation. The second inauguration took place in the new place on 25th April, 2004, in the presence of Romanian and Hungarian officials. The Reconciliation Park was established in a new place, on Firemen square, where they placed a 9-meter-high triumphal arch opposite the statue, with Avram Iancu and other rebels

under it. The triumphal arch is the work of Ioan Bobloleanu sculptor from Bucharest.

On 13th April, 2011, the diadem, the dagger and a sword were stolen from the statue. The suspected culprit was apprehended and 4 CCTVs were placed. On 14th February, 2015, the statue became damaged again: 6 of the 13 reliefs displaying the martyrs were paint-sprayed red, yellow and blue – the colours of the Romanian national flag – on the southern and eastern side, furthermore, a Hungarian-cursing text was paint-sprayed on the pedestal.

23. Arad. Holy Trinity memorial

Historical background: The first Holy Trinity memorial was inaugurated in 1751, then it was renewed in 1853. The memorial made of limestone in baroque style had turned into a bad condition by the early XX. century, therefore the members of the municipality committee established a special committee to address the problem. After discussion, the town's general assembly opened a tender to plan and create the new statue.

Description: a Votive-state in memory of the Bubonic plague in the XVIII. century. It replaced the former votive statue.

Artist: József Róna (born Rozner, 1861-1939), sculptor from Budapest.

Place and time of inauguration: Arad, the square in front of the theatre, 1901, on Holy Trinity day.

Present condition, Afterlife: it was demolished after the change of system in 1962 and was sheltered in the nearby Minorite church until 2007. The original tablet was not re-installed on the obelisk, as it was taken to a village near Arad to save it and converted into an altar table where it stands even now. The renovation was carried out by Rudolf Kocsis sculptor. The memorial was placed back to its former place, in front of the theatre, in 2007.

24. Arad. *Statue of Kálmán Szerdahelyi*

Historical background: Szerdahelyi was a remarkable actor in the XIX. century, he stood out in his roles as dramatic heroes, significant characters and *bon vivants*, too.

Description: bust.

Artist: Zsigmond Aradi (born Landshut, 1839-1899), sculptor in Arad.

Place and time of inauguration: foyer of the theatre.

Present condition, Afterlife: it was removed within some years following the imperium change.

25. Arad. *Actors' memorial tablet*

Historical background: renowned Romanian, Hungarian, German actors (Déryné Széppataki Róza, Trauman, Pascaly és Matei Millo) who played in Arad.

Description: marble memorial tablet in Romanian language.

Place and time of inauguration: on the wall of the former theatre, in communist times.

Present condition, Afterlife: it was removed when the building was renovated in the 1980s.

26. Arad. *Memorial tablet of László Vásárhelyi*

Historical background: László Vásárhelyi was the parliamentary representative of Arad for a short period of time. He was a member of the Kölcsey Association's monography-committee representing Arad, and he was among the first people who donated money for the Statue of Liberty. From the beginning, he was a member of the board of Arad-Kőrösvalley Railroad, which was built 1875-1877. He belonged to the family that offered their valuable library to the lyceum in Arad without any reservation of title, and later, it served as the basis for the Kölcsey Library.⁵⁵

⁵⁵ Ujj 2003, *i.m.*

Time of inauguration: 1904.

Present condition, Afterlife: it ceased to exist.

27. Arad. *The martyrs' obelisk*

Historical background: 4 general officers were executed by a firing squad at the dawn of 6th October, 1849, near gate No.6. of the Arad castle, whereas 9 of them were hanged outside the fortification. The Austrian commander did not consent to the Christian burial of the executed officers, saying that „a soldier should rest in peace where he was killed”. In 1974, the remains of 11 officers were buried in the crypt placed in the pedestal of the obelisk to mark the 125th anniversary of their execution. It was the time when the remains were delivered to Arad, those of Károly Leiningen Westerburg from Borosjenő, János Damjanich and György Lahner from Mácsa. At the request of their families, Ernő Kiss had been buried in Elemér and Arisztid Dessewffy in Margonya a few decades earlier. The bones of the others and the pieces of the gallows were excavated in the 1930s.

The Private Soldiers' Association of Arad erected a rubbly column on the site of the execution in 1871, which was heightened with a cone-shaped post in 1874 and changed for an obelisk in 1881, financed by public donations. The first reading can be found on the foot, opposite the stairs, written in Hungarian language and created in 1881. The date is above: 6th October, 1881. The memorial tablet of the martyrs written in both Hungarian and Romanian was unveiled on 6th October, 1974, to commemorate the 125th anniversary of the executions.

Description: The memorial is an obelisk standing on the top of an artificial hill. On one side, the date of 6 October, 1849 is engraved, on the other sides, the names of the 13 martyrs, in the order of their execution. The memorial is near the castle, on the Martyrs' square (Piata 13 Martiri). Strikingly, sport fields have been built around it, and the memorial's stairs are sometimes used as a spectators' terrace.

Place of inauguration: on the place which is now known as 13 Martyrs' square. 50 years after its installation, the spot where the execution really

took place had to be reconsidered. During excavations in 1932, some remains of high-ranking officers were found who had been buried at the foot of the gallows. In view of this information, it can be stated that the exact place of the executions was about 250 metres from one of the Maros bridges, some hundred metres closer than the obelisk.

Present condition, Afterlife: the obelisk has been changed several times.

28. Sebis. Millenium memorial

Historical background: a serial of ceremonies was held to commemorate the millennium of Hungary, in the framework of which several memorials were intalled.

Place and time of inauguration: Sebis, Wenckheim square, 1896.

Present condition: this phenomenon disturbed the Romanian authorities and they addressed the issue by removing the memorial erected to mark the Hungarian millennium from its original place, then it was converted into a memorial for the victims of WWI, with Romanian engraving.

29. Moneasa. Memorial of Gyula Czárán

Historical background: Gyula Czárán was considered to be the apostle of touring. He was born in Sepreus, Arad county, in 1847 and attended the grammar school in Arad and Bratislava. He studied law in Budapest and Vienna, but due to illness, he moved home. He started to hike in Codru Moma mountain in the 1880s, subsequently, he moved to Moneasa. It was Gyula Czárán who determined the footpath in the wildest parts of the Western Ore Mountains, moreover, in a way that the caves, cliffs, valleys, dolinas, waterfalls, lost rivers and water-blasts can be seen from the best angle. He became the member of the Transylvanian Carpathian Association in 1895.⁵⁶

Description: it is a memorial carved from a single, vast stone, with the engraved name of Gyula Czárán on the plaque of the memorial.

⁵⁶ Uo.

Time and place of inauguration: Moneasa, 19th August, 1906.

Present condition: it is still standing; however, the plaque has been removed from the pedestal.

30. Pecica. Statue of St. John of Nepomuk

Historical background: the artifact dated 1773 was originally meant to be a public statue.

Description: painted limestone sculpture.

Time and place of inauguration: 1773, on the square in front of the Casino in Pecica.

Present condition: the authorities removed it from the square to its present place, next to the Catholic church in 1949.

31. Radna. Memorial for Joseph II.

Historical background: Joseph II. arrived in Radna on 25th April, 1768, and admired the scenery from the hill of the monastery for 45 minutes, enjoying the sight of Zarand mountain range and Banat hill, along with the Maros valley.

Time and place of inauguration: the obelisk was erected on the so-called Emperor-hill on 30th July, 1776, a poem was also written to mark the event by Bernát Schleichart monk from Randa.

Afterlife: it was destroyed after the imperium change; its pieces are still scattered in the wilderness of the hill.

32. Radna. Kossuth-memorial

Historical background: In Arad, Lajos Kossuth transferred the civil and military power on to Artúr Görgey after the military turningpoint triggered by the Russian intervention on 11th of August, 1848. After saying farewell to his family in Radna, Arad county, he fled to Turkey with his companion. The farewell ritual took place in the building of

the pharmacy, and it was marked by a memorial plaque placed on the wall of the building.

Description: the reading on it says: „LAJOS KOSSUTH said farewell to his family in this house in August, 1849.”

Place and time of inauguration: Radna, 1902.

Present condition: no one was disturbed by the plaque for 100 years, however, the present owner of the house covered it with a Romanian flag in February, 2019, which was later removed.

33. Radna. Memorial of Franz Ferdinand

Historical background: Franz Ferdinand was an Austrian grand duke and became the successor to the throne of the Austrian-Hungarian Monarchy after the death of Lajos Károly grand duke. Later, he became the military deputy of Franz Joseph. His idea was to restructure the Dual Monarchy, restrict Hungarian autonomy and extend the rights of the nationalities. He wished to address the South Slav issue in the framework of the Monarchy. He and his wife, Sophie Chotek were assassinated in Sarajevo on 28th June, 1914.

Description: it is a metal relief displaying Franz Ferdinand and his wife, Sophie Chotek, with a marble plaque: „FRANZ FERDINAND and his wife spent the night of 6th September, 1903, in this house.”

Afterlife: the marble plaque was originally placed on the front side of the house, the owner of the house removed it to the wall opening to the garden in the 1990s.

34. Savarsin. Memorial of Queen Elisabeth

Historical background: see the Queen Elisabeth statue in Arad.

Description: the memorial monument of Queen Elisabeth is a 3-meter-high marble obelisk, with the painting of her by Nelli R. Hirsch in the centre.

Place and time of inauguration: in the centre of Savarsin, on Elisabeth-day in 1899. The ceremony began with a divine service, then Romanian

and Hungarian speeches were held, emphasizing the importance of the memory of Queen Elisabeth and the ceremony.

Present condition: now it is replaced by an obelisk for the Romanian heroes.

4.2. Crasso-Severin county

Today's Crasso-Severin county does not contain Cazane gorge of the Danube and Orsova, either. As they used to belong to the historical Banat, and there used to be numerous important memorials in this area, it is worth mentioning them.

1. Bocsa. Statue of a private soldier

Historical background: the town's leadership decided in 1907 to place a statue in memory of the local heroes who had sacrificed their lives for freedom.

Description: it is a two-figure statue carved from 3 stones, on a 2,5-meter-high pedestal and the date on it: 1848-1849.

Artist: Richárd Füredi (born Führer, 1873-1947), sculptor from Budapest.

Place and time of inauguration: on the main square, 13th November, 1910.

Afterlife: in the 1920s, the authorities instructed Tibor Bottlik (1884-1974), a sculptor from Bocsa, to convert the statue into a Romanian soldier memorial. He was reluctant to do so, the statue was removed from the pedestal, then finally, Tibor Bottlik carved the requested memorial in the late 1930s. A piece of the vanished statue was found in the workshop of a stone-mason in 1999, since then it has been kept in the Catholic churchyard.

2. Bocsa. Rebels' obelisk

Historical background: As the revolutionary government instructed the iron plants in South Banat to put their production at the service of

the revolution, the imperial powers attacked Resica, Bocsa and Sasca Montana, however, the rebels managed to repeal these assaults. Bocsa paid their tribute to the killed heroes by erecting a monument.

Place and time of inauguration: the first memorial was placed in 1875, the obelisk was moved to the main square leading to Resica in 1910 to hire its place to the new statue of the private soldier.

Afterlife: in 1923, the statue was moved to the corner of the cemetery at the request of the authorities. In 1995, the obelisk was put in a central place of the cemetery, it was reconstructed (by DAHR)⁵⁷ and an additional plaque was attached to it with 4 dates (1848, 1918, 1945, 1989) and one word: PAX.

3. *Bocsa. Statue of I.G.Duca*

Historical background: Ion. Gh. Duca (1879-1933) was a Romanian liberal politician, more times minister after 1922, and he was appointed prime minister of Romania in 1933. He stood against the Iron Guard, an extremely nationalist (against Jews and Hungarians) movement set up in 1927, as a result, he was assassinated in Sinaia upon the instruction of the movement on 20th December, 1933. More statues were placed in his memory in the whole country. The statue in Bocsa is mentioned in the abovementioned work of Teodorescu – I have not found any other reference to it.

Description: a 2,2m high statue, with the text on its pedestal: „Acest bust s-a ridicat de către administrația plasei Bocșa Montană în amintirea marelui român I. G. DUCA.” English translation: „This bust has been placed by the administration of Bocsa circuit in memory of I.G.DUCA, the great Romanian statesman.”.

Time of inauguration: 1934.

Afterlife: in 1940, after the appointment of the fascist Ion Antonescu as a prime minister, every Duca statue had to be destroyed.

⁵⁷ DAHR: Democratic Alliance of Hungarians in Romania, the main political party representing the Hungarian community of Romania.

4. Bath of Hercules. Statue of Queen Elisabeth

Historical background: general, see Arad 18. Queen Elisabeth often visited the town, it was her favourite place. Even a villa coined its name from her, or rather, the Tatártzy villa was renamed as Elisabeth villa. This building was converted into a culture house after 1948, and it housed the library, too.

Description: it is a full-figure marble statue displaying the queen in a simple garment instead of a ceremonial one. The only text on the pedestal is: ELISABETH.

Artist: János Horvay (born Hoppl, 1874-1944), sculptor from Budapest.

Place of inauguration: central place of Bath of Hercules, in front of the Tatártzy (Elisabeth) villa.

Present condition, Afterlife: in 1921 it still existed but disappeared between the two WWs.

5. Bath of Hercules. Memorial tablet for the meeting of kings

Historical background: the waterway created by regulating Cazane gorge was inaugurated on 27th September, 1896, in the presence of Franz Joseph I. Austrian emperor and Hungarian king, Charles I. Romanian king and Alexander I. Serbian king. Following the inauguration ceremony, the kings travelled to Bath of Hercules to have a banquet there. This diplomatic and economic historical event was marked with a memorial.

Description: the next text is engraved on the granite tablet with neoclassicistic frame: „Franz Joseph I. / our glorified ruling king / for him and his wife and his noble guests / Charles I of Romania / Alexander I of Serbia / during the ceremony staged to celebrate Hungary's millennium / to mark the opening of the Danube Iron Gates Channel / in the month of September, of the year 1896 / and on the day of 27th in memory of his visit of Bath of Hercules.

Place of inauguration: right side of Cserna valley, on a cliff.

Present condition, Afterlife: it weathered the storms of history for a long time. In 1993, unknown persons vanished it. Some say the heavy tablet was removed with the help of a crane.⁵⁸ (It is a well-known fact that unknown persons are usually equipped with a crane should they be in the mood to steal a granite tablet.)

6. Caransebes. Statue of Queen Elisabeth

Historical background: general aspects – see Arad 9. The queen visited Bath of Hercules and Marilla to receive therapies there. Many people could meet her, she was popular.

Description: white marble must of full figure, showing the queen in a unique garment, not in the „usual” one. The writing on it says: ELISABETH.

Artist: János Horvay (born Hoppl, 1874-1944), sculptor from Budapest.

Place and time of inauguration: Drăgălina square 2., 1901.

Present condition, Afterlife: the statue was first taken to a new place, but the destruction and mutilation took place during the march of the Russian troops in 1944-45 when the fractures of the statue were buried in an unknown place.⁵⁹ However, due to a coincidence, they turned up in 2000, a teacher discovered them during an excavation near the wooden church. The museum aspires to remodel the statue.⁶⁰

7. Caransebes. Memorial of Franz Joseph

Historical background: there were more and more memorials in the early 1900s that represented the general acceptance of the ruler.

Description: imposing statue of full figure in front of a column decorated by the Hungarian coat-of-arms between two lying lions.

⁵⁸ Szekernyés 2013, *i.m.*

⁵⁹ Note: the already mentioned Teodorescu contends in his work that the statue had to be uninstalled due to the rejection of the local Romanians. He should have gained information and he should have stated in his work written in 2006 that some parts of the statue were found and the local museum was planning to reinstall it.

⁶⁰ Source: <https://www.kozterkep.hu/13404/erzsebet-kiralyne>, accessed: 2020.10.05.

Artists: planned by János Fadrusz (1858-1903) sculptor from Budapest, created by Rezső Rollinger Gaál sculptor.

Place and time of inauguration: Caransebes, in the present Racovița street, on 7th October, 1906.

Afterlife: after the imperium change, the statue was removed, the local Romanian intelligentsia protested against it. More parts of the memorial were preserved. The 2,75m high bronze statue was discovered in the storeroom of one of the voluntary firemen in the course of a military control. The army wanted it to be taken to Bucharest and melted there, and later to erect the statue of Ferdinand I. made of this bronze on the same pedestal. The town's leadership managed to sabotage it in more different ways. Their aim was to gain time, and in 1930 the ad hoc committee stated that the town was reluctant to get rid of the statue, as it is of high artistic value due to the fact that it had been planned by Fadrusz and created by Rollinger. The statue was still in the same storeroom. Since 1943, the statue of general officer Ion Drăgălina has been standing on its pedestal.

8. Oravita. *Memorial of Queen Elisabeth*

Historical background: in the 1880s, Queen Elisabeth visited Bath of Hercules several times to be treated there. She travelled fromt here several times and unofficially to Bath of Marilla, always followed by her close companion and her maid of honour, Irma Sztáray, whose uncle, Móric Hoffenreich, worked as a doctor there and checked the health of the queen in the area famous for its fresh air.

Description: we can find a cliff on the way leading from Oravita to Anina, not far away from Marilla, next to the Lup hunting box, hidden in the dense pinewood, on the left side of the road if we go from Marilla. On the cliff there is a date: 1899, and the empty place of a stone plaque. A memorial was placed in the depth of the forest, with the following words: In grateful memory of QUEEN ELISABETH / with deferential inistence / was it planted by the forestry of the Patented Austrian-Hungarian National Association / 1899. The word 'planted' referred to

the pinewood around the cliff, some trees can still be seen there. The marble tablet was removed after 1918 and now, there is only a cliff there, abandoned and forgotten.⁶¹

Artist: Alexander Liuba (1875-1906), local sculptor.

Time of inauguration: 1899.

Afterlife: all the engraved plaques were destroyed in the 1920s. The praefectus of Crassno-Severin county initiated the renovation of this tablet, thus, the cliff was taken to Oravita and placed in front of the Catholic church in 2004, and a new plaque was attached to the cliff, written in Romanian and German language.

9. Oravita, Ponyászkatelep. Memorial of Ormós Zsigmond

Historical background: he founded a lot of cultural institutions, and, at the same time, he was a politician, public servant, writer of non-fiction books, collector of artifacts and art historian, academic, who lived between 1813 and 1894. He was a determining person in Banat who often spent his holiday in Ponyászkas, Oravita.

Description: there is no picture of him. Gyula Gálffy: next to Oravita, „Ponyászka is located in a picturesque valley not far away from the road to Stájerlak-Bozovics. It consisted of some nice summer houses, hunting boxes and restaurants at the end of the last century, surrounded by a well-kept park. The spring area leading to Ponyászka was developed and it coined the name Ormós, decorated with a 40x40 cm bronze relief by Zsigmond Ormós, on which an engraved plaque.”. Perhaps the Southland Carpathian-Association placed it, maybe to mark the visit of the sheriff.⁶²

Artist: Ferenc Kugler Pál (1836-1875), sculptor from Budapest.

Time of inauguration: after 1880.

Afterlife: it was pulled down between the world wars. The relief was taken to a forester engineer called Révai, his family preserved it and his son donated it to Gyula Gálffy. Gálffy, in his retirement, moved to

⁶¹ Gálffy Gyula: Magyar vonatkozású emlékek Oravicabányán és vidékén. *Művelődés* 1998/2., 19.

⁶² Uo.

Timisoara and handed it over to the leader of the Zsigmond Ormós Association in Timisoara, Dr. György Matekovits, who also handed it over to the museum of Timisoara, and this is the point where it disappeared. There is no news about it and it has not been exhibited.

10. Orsova. Rákóczi-memorial

Historical background: The ashes of the leader of the Rákóczi-revolt and those of his companion who fled to Turkey and died there were transferred from Tekirdag to Kosice in 1906. Orsova, along the Sub-Danube, was the place where the convoy delivering the ashes stepped first on Hungarian soil. The memorial was placed to mark this event by the leaders and Hungarian youth of the town.⁶³

Description: engraved obelisk made of granite

Artist: Béla Gerenday (1863-1936), sculptor from Budapest.

Time of inauguration: 1907.

Afterlife: the circumstances of its disappearance are unknown, presumably it happened before the old town of Orsova was overflowed due to the construction of Iron Gates I in 1971.

11. Orsova. Chapel of the Hungarian crown

Historical background: Lajos Kossuth left Hungary with some revolutionists on 17th August, 1849. A member of his companion, Bertalan Szemere, earthed the Hungarian crown and the regalia at the foot of Allion-mountain at the mouth of Cerna river, between the Habsburg and Ottoman Empire, on no man's land. Following a search lasting more years, they were found in a box on 8th September, 1853, in it the coronation sword under the royal gown of King Stephan I. The saint crown was in the right corner of the box in a scabbard fallen into pieces due to humidity. Not taking account of some broken stones, the crown was solid, however, its lining was rotten, and the condition of the other regalia was also rather poor. The coronation jewellery was

⁶³ Murádin 2008, *i.m.*

transported to Buda, then to Vienna, in the framework of a ceremony. Finally, they were taken to Buda to preserve them. To show his gratitude, the king had a chapel built on the site of their discovery.

Time of inauguration: 1901.

Present condition, Afterlife: the construction of the Iron Gates resulted in the overflow of the old town of Orsova, the chapel was simply exploded.

12. *Rusca Montana.* Memorial of Francisca Maderspach

Historical background: Károly Maderspach metallurgical engineer, the brother of Ferenc Maderspach lieutenant-colonel, along with his wife Francisca Buchwald was an enthusiastic supporter of the Hungarian Revolution and War and provided the Hungarian troops with armoury and canons. They were occasionally visited by József Bem, György Kmety and Richárd Guyon, which had to be retaliated by the Austrians. When they invaded the town on 22nd August, 1849, they flogged her half-naked on the main square, then took her to prison. Ashamed, the husband committed suicide, the wife died in 1880.

Description: their two sons erected a memorial in memory of her on the Mortar mountain in Rusca Montana, on the spot where allegedly the husband committed suicide. The memorial „hemmed by Greek columns in baldachin form” reads the following engraving: „Wanderer, stop here for a moment and take off your hat. This is the Golgotha of Mrs. Maderspach.”

Artist: the full- figure bust of the memorial was made based on the gypsum statue of István Ferency (1792-1856), which was allegedly created around 1840 to pay the artist’s faithfulness for their help in finding the high-quality Rusca marble and hereby, he could later make fascinating statues.

Date of inauguration: 10th October, 1909.

Afterlife: the memorial was damaged in the 1920s, the bust and the engraving were removed. The remaining part of the memorial was reinstalled in the centre of the town, in front of the Roman Catholic

churh, where a marble plaque listing the names of the victims of WWI was fixed to it in 1933. Later, the names of the victims of WWII were added, too.

13. Rusca Montana. Maderspach-obelisk

Historical background: this obelisk was erected from donations on the spot where Francisca Maderspach was flogged.

Description: obelisk made of rubbly.

Place and time of inauguration: on the field named Liberty grove, 10th October, 1909.

Afterlife: not much after the change of imperium, the obelisk was pulled down, then it was replaced by a neutral obelisk.

14. Iron Gates. Memorial of István Széchenyi

Historical background: Cazan gorge consists of more stretches, it encompasses 134 km and part of a canyon valley. The shipping conditions were critical in this rough part of the Sub-Danube as numerous cliffs and reefs formed obstacles in the depth of the water. The idea of regulating the Sub-Danube was cropped up by István Széchenyi who travelled along this stretch of the river with experts in 1830. The rather complex construction started in 1834, based on the plans of Pál Vásárhelyi. The issue of regulating the river came up again in the 1870s following some diplomatic debate, as the building of the waterway was mostly supported by the Austrian-Hungarian Monarcy, whereas Romania and Serbia did not find it important even if they were geographically concerned. The waterway was officially opened in 1896 and it extended the original 152-day shipping season to 290 days. The first memorial of István Széchenyi was erected in 1885, but it was overflowed at the time of the Iron Gates regulation.

Description: The Hungarian Association of Engineers and Architects had a part of the cliff in the Great-Kazan gorge polished and engraved

the next: „In memory of SZÉCHENYI / the Hungarian Association of Engineers and Architects / MDCCCLXXXV.”.

Designer: Ignác Alpár (born Schöckl, 1855-1928), architect from Budapest.

Time of inauguration: 1885.

Afterlife: the engraving on the cliff was overflowed at the construction of Iron Gates I resulting in the rising of water level by 30m. The same happened to the Traianus tablet on the Serbian side of the Danube, however, it was saved by the Serbian builders who fixed it 40m higher.

Over recent years, some enthusiastic sailors from Budapest have placed some new tablets with the original text (last time in 2005, the Earl Ödön Széchenyi Shipping and Yacht Association), however, the tablets kept vanishing. The newest and still visible tablet was unveiled on 26th May, 2018, in the presence of religious persons, officers from Romania, Hungary and Banat and other patrons. The founding came for the Hungarian Shipping Association.

15. Iron Gates. Hunyadi memorial

Historical background: János Hunyadi had a landslide victory over the much stronger Turkish troops at the Transylvanian Iron Gates, east of Tara Hategului, this memorial next to Zajkany village was erected to commemorate this event at the time of the millennium festivals.

Description: it is a mace made of a 4m high cast-iron. On it the Hunyadi coat-of-arms and the writing: „János Hunyadi, with his troop of 15,000, defeated beylerbey Sehabeddin's troop of 80,000 invading Transylvania in this gorge on 6th September, 1442. This memorial was placed by Hunyad county to mark this glorified event in the 1000th year of the Hungarian Settlement.”.

Artist: designed by Ferenc Márkusz (Markup), the main engineer of the iron works in Hunedoara.

Place and time of inauguration: Sarmizegetusa, 6th September, 1896.

Present condition, Afterlife: 5 similar memorials were placed in the South-Carpat this time, however, all of them were destroyed after the change

of imperium. The last one, located in the col above Volcano village, was pulled down in the middle of the 1960s.

On 22nd June, 1992, „unknown persons” pulled down the Hunyadi memorial with the help of heavy machines and its mace disappeared. However, a year later it was hauled in the Ostro lake and taken to Sarmizegetusa museum. Sadly, the mace vanished from here in November 1994, followed by the fallen pieces of the memorial in 2003 located still on the spot. The pedestal was also pulled down.⁶⁴

4.3. Timis county

This compilation consists of the villages of today's Timis county in spite of the fact that this area used to be called Timis and Torontal county, too. The details bear no significance from this point of view.

1. Bazias. Memorial tablet of Kossuth

Description: It can be proven with a photo that the employees of the Hungarian Royal Railroads unveiled a memorial tablet of Kossuth in the small village of Bazias, the first settlement on the Romanian side of the Danube. No other relating document has been found.

Time of inauguration: 1912.

Present condition: it does not exist anymore, there is no information on how it was removed.

2. Bath of Buzias. Relaxing place of Ferenc Deák

Historical background: bottling of Buzias mineral water started in 1840, and in the following decade hotels, bath houses were built and hydrotherapeutic treatments became available. Several significant politicians of that era visited the bath, including Ferenc Deák, whose

⁶⁴ Source: <https://hu.wikipedia.org/wiki/Vaskapu-h%C3%A1g%C3%B3>, accessed: 2020.10.05.

illness turned more serious after the reconciliation. He spent 6 months here in 1868, then returned in 1869. A stone bench was built to commemorate his visits.

Description: a limestone bench in the shape of a half-circle. The tablet says: „Relaxing place of FERENCZ DEÁK MDCCCLXIX.”.

Artist: designed by Ferenc Kolbenheyer (1841-1881), prepared by Béla Seenger (?-1905), sculptor and stone-mason from Budapest.

Present condition, Afterlife: the Romanian dictator and his wife visited the spa town in 1988. The wife's attention was drawn to the bench and the sight of the Hungarian tablet upset her: Remove it – she claimed. It was done with immediate effect. There was no news about its whereabouts for a long time, then some pieces of it turned up in the dump of the town in 2000. This was a time when the (oversized) copy of the bench was being made and it was inaugurated on 29th October, 2003, in the Reformist churchyard where the saved parts of the original bench were also placed. Nowadays, it is also referred to as the bench of Nicolae Iorga (notable Romanian historian, politician).⁶⁵

3. *Bath of Buzias. Statue of Ágoston Trefort*

Historical background: Ágoston Trefort, acting as a minister first for economic affairs, later religious matters and public education, remarkably contributed to the development of the bath and the village. The statue was erected from the donations of the local people, still in his lifetime.

Description: bronze bust on a high pedestal.

Artist: Adolf Huszár (1843-1885), sculptor from Budapest.

Place and time of inauguration: in the park of the spa town, in front of the relaxing bench of Ferenc Deák, in the summer of 1883.

Afterlife: it was pulled down in the summer of 1919. At civil initiation, a new statue was unveiled (sculptor Péter Jecza) on the road of the bath,

⁶⁵ Liana Păun: Istoria stațiunii Buziaș și a primului ștrand cu apă minerală din Europa. *PressAlert.ro*, source: <https://www.pressalert.ro/2014/06/istoria-unei-comori-uitate/>, accessed: 2020.10.05.

in front of the Reformist church. The place of Trefort's original statue is now occupied by a Mihai Eminescu statue.

4. Cakova. Statue of Queen Elisabeth

Historical background: a Queen Elisabeth statue was unveiled in the grove established in memory of Queen Elisabeth in 1899 by Cakova. The Town Hall is on one end, the Elisabeth-grove is on the other end of the main square (Budapest Quarter 2006, Summer, Issue No. 52.)

Present condition: no information about it.

5. Cakova. Millenium-obelisk

Historical background: it was erected as part of the millenary festivals (Murádin 2008).

Inauguration: May 1896.

Afterlife: it was destroyed after 1919, no more information about it.

6. Deta. Statue of Antal Kratzer

Historical background: Antal Kratzer (1824-1899), a local judge (and slaughterman) established a local park and donated it to the village. In his memory, a statue was erected.

Description: a 3m high obelisk, limestone pedestal with a bust on it.

Artist: Keresztély Trampist, sculptor from Versec.

Place and time of inauguration: in the local park, 25th September, 1904.

Present condition, Afterlife: it was destroyed and thrown into the stream in the park, some say it happened at the time of the invasion of the Soviet troops in 1945, according to others during anti-Tito times in the 1950s. The pedestal was left intact and a statue of a fishing boy (girl: Diana?) was put on it (Szekernyés 2013).

The mayor office of Deta unveiled a new Kratzer-statue in the park in 2017 (by Aurel Gh. Ardeleanu), in front of the King Ferdinand statue erected almost at the same time.

7. *Deta. Millenium-obelisk*

Historical background: the local community erected a millenium obelisk at the entrance of the Kratzer-park.

Description: a high obelisk with a turul on the top.

Artist: Keresztély Trampist, sculptor from Versec.

Time of inauguration: 1903.

Present condition, Afterlife: the Hungarian text was removed in 1923, and instead, they listed the names of the victims of WWI of Deta on it. Some time later, even the turul disappeared from the top. After the changes of the 1990s, a stone cross was placed on the original place of the turul.⁶⁶

8. *Memorial for Elisabeth*

Historical background: there used to be a station between Barsaz and Sacalaz, along the Timisoara – Szeged railroad in the Banat at the beginning of the last century whose name was Memorial for Elisabeth, or, Elisabeta in Romanian. It is obvious that a memorial for Elisabeth must have been standing there.⁶⁷ Neither the station nor the settlement can be found today, no more information is available about it.

9. *Carpinis. Cross of 1848*

Historical background: at the initiation and with the support of Ignác Pető, the main shareholder of the brick factory in Carpinis, an obelisk was erected ending in a cross to mark the place of a battle dating 3rd November, 1848, where 19 Hungarian soldiers were killed.

Place and time of inauguration: at the borderside of the village, 1897.

Afterlife: due to erosion, the memorial went into ruins. With the collaboration of the local community, it was remodelled (at the initiation of Árpád Ordódi) and unveiled again on 3rd November, 2002.

⁶⁶ Szekernyés 2013, *i.m.*

⁶⁷ Forrás: <http://erzsebetsisikiralyno.blogspot.com/p/emlekei.html>, letöltés ideje: 2020.10.08.

10. Ostern. Elisabeth memorial stone

Historical background: the local community placed it in memory of Queen Elisabeth in 1901.⁶⁸

Afterlife: No more information about it.

11. Lugoj. Statue of I.G. Duca

Historical background: general – see Caras-Severin county, 3.

Description: a bust on a high pedestal, 4,8m.

Artist: Radu Moga Mânzat (1906–1950), teacher and sculptor.

Place and time of inauguration: Center, 1936.

Afterlife, Present condition: it has been pulled down. According to an article written these days,⁶⁹ it was hidden by the communists, which is contradicted by the fact that other Duca-statues vanished in the early 1940s for political reasons. The Memorial of the Soviet Soldier has been erected on its place.

12. Lugoj. Statue of St. John of Nepomuk

Historical background: general – see Arad 18. „Next to the bridge, on the square of the former secondary school which used to be empty that time, a statue was placed to commemorate St. John of Nepomuk in 1776, at the bank of the Timis: a stone statue with a fence. János Patrubby had a new statue placed on the same place which was benedicated on 10th May. (This statue is said to have been taken to Darova).”.

Place and time of inauguration: „In 1866, József Höcher, a Buzgo citizen, had a new statue of St. John of Nepomuk placed on the upper bank of Timis, which was benedicated on 21st May by Miksa Hain.”⁷⁰

⁶⁸ Borovszky Samu (szerk.): *Torontál vármegye. Magyarország Vármegyéi sorozat.* Budapest: Országos Monográfiai Társaság. 1912.

⁶⁹ Păun, Liana: *Clădiri și statui care povestesc istoria orașului Lugoj. Prof. Dr. Radu Moga Manzat honlapja.* 2016. máj. 23, letöltés helye: www.radumogamanzat.ro, letöltés ideje: 2020.11.18.

⁷⁰ Both citations: Iványi István: *Lugos rendezett tanácsú város története.* Szabadka:

Present condition, Afterlife: the authorities wanted to destroy it in the 1970s, at the time when the construction of the new culture house began. It was saved by being moved to the Roman Catholic cemetery.

13. Tomnatic. Statue of Franz Touttenuit

Historical background: Franz Touttenuit (1844-1904) was a well-known veterinary in the whole Banat. The local (Swabish) community erected this statue to honour his work after his death.

Description: a bust.

Present condition, Afterlife: allegedly, it was damaged and hidden during WWI, however, others say (notably W. Konschitzky) that a significant number of Romanians settled down in the village in the mid-1940s who were disturbed by it and they destroyed it.

14. Sannicolau Mare. Column of Queen Elisabeth

Historical background: general – see Arad 18. A pompous public garden was established on the bank of Aranca with the support of earl Sándor Nákó. The column of Queen Elisabeth was stood on a pile in the middle of this park.

Description: the unique shape of the column can be seen on a postcard, however, covered with ivy, so the engraving cannot be made out.

Present condition: it was broken in the 1950s, 1960s, the remains were thrown into Aranca.⁷¹

15. Sannicolau Mare. Obelisk of Miklós Révai

Historical background: Miklós Révai (1750-1807) was the greatest linguist of his age, a university professor who was born in Sannicolau Mare. His obelisk was erected by the Hungarian Public Education Association of

Szerző kiadása. 1907.

⁷¹ Szekernyés 2013, *i.m.*

Torontal county and South-Hungarian Teacher Association from the donations of generous grantors.

Description: the obelisk is made of grey granite with a nice bronze relief on the front side showing the profile of the scientist, with floral decoration. Engraved name, date and citation on the sides. On one side there are Révai's own words: „If the renewed homeland will ever pay respect for the martyrs who suffered to sustain their language, I feel solace that I will be one of them.”

Artist: the Révai relief was made by Barnabás Holló (1865-1917), sculptor from Budapest.

Place and time of inauguration: on the main street (now Republicii) in the middle of the former market place, on 25th August, 1893.

Afterlife: it was reconstructed in 1925 whereby the relief was removed (it is not known, where), the statue of Mihai Eminescu was placed on the eliminated column. (Its inauguration was attended by Octavian Goga, a former minister, on behalf of the Romanian Academy.)

In 2007, a tablet was placed in his memory in the entrance hall of the Catholic church. In 2015, the town's authority placed a statue in his memory (made by Aurel Gh. Ardeleanu). The text on the pedestal was written in three languages (Romanian, German and English), but not in Hungarian.

16. Sandra. Liberty obelisk

Historical background: the Swabish community of the town established the 15th March Association and decided to place a memorial to evoke the Hungarian Revolution and War of Independence of 1848-49.

Description: liberty was represented by a saker falcon with open wings on the top of the 3m high marble column.

Place and time of inauguration: in the grove next to the cemetery, 17th April, 1911.

Afterlife: it was destroyed after 1944 at the instruction of the Romanian authorities.

17. Timisoara. Statue of I.G. Duca

Historical background: general – see Caras-Severin county 3.

Description: bust on high pedestal (4m). Text on it: „*Omagiu memoriei marelui președinte al Consiliului de Miniștri, căzut în slujba țării. Răpus de o mână criminală în 29 dec. MCMXXXIII, la Sinaia. Cetățenii urbei Timișoara.*” In English: “Respect to the great president of the Ministerial Council who sacrificed his life for the country. His life was robbed by a murderer’s hand on 29th December, MCMXXXIII, in Sinaia. Citizens of Timisoara.”⁷²

Artist: designed by Cornal Liuba (1880-1953) architect, the sculptor was Aurel Pop (1879-1960) from Satu Mare, the pedestal by Károly Kendloffer stone-mason from Timisoara.

Place and time of inauguration: on I.G. Duca road, on the square in front of the Piarist School, on 20th December, 1936.

Present condition, Afterlife: it was pulled down at political instruction after 1940 when the Iron Guard came into power.

18. Timisoara. Visit of Franz Joseph

Historical background: the marble relief was prepared to mark the visit of the Emperor between 4-10 May, 1872, and it was placed on the wall of the City Hall’s entrance room at the initiation of Timis county’s legislative body.

Description: a marble relief in big size, 58x158. The central figure is Franz Joseph I wearing a typical ceremonial court dress, with Zsigmond Ormós sheriff on his right and Sándor Bonnáz Catholic priest bishop on his left.

Artist: Ferenc Kugler Pál (1836-1875), sculptor from Budapest.

Afterlife: it was on its original place until 1920, then it was removed and taken to the storage of the Fine Arts Museum of Timisoara.

⁷² Teodorescu 2006, *i.m.*

19. Timisoara. Statue of Franz Joseph

Historical background: „On the nameday of the king, a pompous military parade took place in Timisoara: the new building of the common army was ceremonially handed over and the statue of the king was inaugurated in the garden.” (Sunday News, 1902. Issue No.41.)

Description: the statue of Franz Joseph stood on a pile in the garden of the cadet school. The 3,5m pedestal was made of grey marble, the bronze statue was 2,5m high displaying the ruler wearing a cavalry general officer uniform.

Artist: Edmund Hoffman von Aspernburg (1847-1930), sculptor from Vienna.

Place and time of inauguration: in the Centre, in the garden of the cadet school, 4th October, 1902.

Present condition, Afterlife: the same as other public statues of the monarchy: it vanished between the WWs.

20. Timisoara. Soldier-obelisk

Historical background: The Timisoara-Factory Quarter Circle proposed the erection of a memorial to pay tribute to the soldiers killed in the Hungarian Revolution and War of Independence, it was financed from public donations.

Description: a 4m high obelisk with engravings.

Place and time of inauguration: Timisoara Factory Quarter, Girodai street No.12, on 1st November, 1894.

Afterlife: it was renovated in 1948, a new marble tablet was made which was broken in 1990, the Democratic Alliance of Hungarians in Romania replaced it with a new one, the obelisk was remodelled in 1996. Its anointment took place on 14th March, 1997.

21. Timisoara. Statue of a soldier

Historical background: the statue had a different name, too: the statue of military sacrifice. The war was going on for a time, more and more

soldiers came home from the battlefields with several, serious injuries. The statue of military sacrifice was erected in several places – the aim is highlighted even by the way it was taken a photo of. Two physically handicapped soldiers can be seen in the picture, both of them on crutches.⁷³ It is likely that it happened on a regular basis that physically handicapped soldiers stood at the sides of the statue, to emphasize sacrifice and facilitate donations. It was a Hungarian initiation to collect money for this statue, whereas the Germans urged donations for the iron soldiers serving the same function.

Description: the statue in Timisoara shows a soldier leaning on his weapon and was made of artificial stone. Behind the statue, there is a turul with open wings on a column with a coat-of-arms. The statue was protected with a baldachin.

Artist: János Istók (1873-1972), sculptor from Budapest, his work was carved from marble by András Sipos, local sculptor.

Place and time of inauguration: next to the theatre, at the beginning of Rezső (now Alba Iulia) street, spring of 1916.

Afterlife: it was taken to the museum in 1917, then vanished after the WW.⁷⁴

22. *Timisoara. Memorial tablet for József Képešsy*

Historical background: József Képešsy (1818-1876) was a hydraulic engineer who carried out significant regulations of waterways in the area as a director after the reconciliation. His work is extremely highly-appreciated in the originally swampy Banat.

Description: Romanian and Hungarian text engraved on two tablets on the former headquarters of the Timis-Bega River Training Association (now it also belongs to water management, 1989. December 16. street No.2): „In honour of JÓZSEF KÉPEŠSY / the curator of the Bega-regulation / to mark the 120th anniversary of his death.” Then those

⁷³ Ilieșiu, Nicolae: *Timișoara, monografie istorică*. Timișoara: Ed. Planetarium. 2003, 324.

⁷⁴ Miklósi Ilona: XIX. századi temesvári szobrok – és ami belőlük megmaradt. In: Kiss Ferenc: *Mindenki Kalendárium*. Temesvár: Reflex Kft. 2004.

who ordered it: Mayor Office of Timisoara, Hungarian Hydrologic Association, Timisoara branch of Meliorationist Trust.

Time of inauguration: 25th October, 1996.

Present condition: the water management palace was renovated in the 2000s. Although this work was finished long time ago, the tablets have not been replaced yet.

23. Timisoara. Statues of Madonna Pharmacy

Historical background: the Madonna Pharmacy was opened in the former Rezső (now Alba Iulia) street in 1922. There was an oval wreath above the entrance where statues were placed.

Description: Virgin Mary and baby Jesus in the middle, under a drainpipe for protection. Esculapus and Hygenia, the ancient Greek Gods on the two sides.

Artist: Nándor Gallas sculptor.

Time of inauguration: 1922.

Present condition, Afterlife: the statues were removed and given to the museum at the nationalization of the pharmacy. The Madonna statue could be seen in the garden of the Hunyadi castle (museum). However, it has not been there for a long time and there is no information about the other two statues, either.⁷⁵

24. Timisoara. Virgin Mary memorial

Historical background: More memorials were devoted to Virgin Mary in the town (1835: Virgin Mary wooden column, 1854: stone statue), then in 1877 this memorial was brought to life at the initiation of Our Lady Poor School Nurses from public funds.

György Dózsa attacked the town with his troop in 1513 – of no avail. Dózsa got seriously injured in the battle. The winners failed to practise clemency, the members of his troop were gutted, their leader was ordered to be executed by sitting on a flaming throne, a sparkling

⁷⁵ Szekernyés 2013, *i.m.*

iron crown was placed on his head and he had to grip a spectre on fire in his hand. There is uncertainty about the exact scene of his execution. When the chapel with the Virgin Mary statue was built, the engraving on the chapel stated that it had been built on the scene of this execution. (The historians see it in a different way nowadays.)

Description: it is a chapel radiating the atmosphere of the Middle Ages, built in neoroman style, open in 3 sides. The 1,5m high Virgin Mary statue inside. A tablet on the back with the next text: „The town and the citizens of Timisoara / offer this memorial / for merciful atonement / of God’s Mother, the Guardian Woman of ... / on the scene of György Dózsa’s ruthless death (†1514) / that has been remembered for centuries / 1906.” The world eradicated by a chisel is: the Hungarians’.

Artist: designed by László Székely architect, Virgin Mary statue: György Kiss sculptor, Budapest.

Place and time of inauguration: Virgin Mary square, right next to the central Reformist church, 1906.

Present condition: the writing on the back tablet was not visible for a long time, then in 1990 it was uncovered and could be read – even in this injured form. The statue was damaged in 2012.

25. Timisoara. Statue of Alexandru Mocioni (Mocsonyi)

Historical background: Alexandru Mocioni or Mocsonyi (1841-1919), used in both forms even in Romanian texts, was a Hungarian-Romanian politician, composer, writer, protector. He represented first the Tormac constituency, then the Radna constituency in the Hungarian Parliament, and he was the member of the Romanian National Party. He resigned from his parliamentary representative position in 1874, but he mostly spent his remaining life in Budapest. His wife was Ilona Somogyi.

Description: a bust, artist is unknown.

Place and time of inauguration: on the place of the current orthodox cathedral, from where it was taken to the Scudier park at the time of the construction of the church. 14th September, 1936.

Afterlife: the communist authorities ordered it to be removed in 1949. A new Mocioni statue was unveiled on the Figures' Avenue in Timisoara, which is the work of Aurel Gh. Ardeleanu.

26. Timisoara. Austrian memorial of Rukavina

Historical background: the memorial was a gift from Franz Joseph to express his gratitude to Timisoara as the town's defender could withhold the attack of the Hungarian revolutionaries for 107 days in 1849. The commander of the imperial troops defending the castle of Timisoara was Georg Rukavina, General of Artillery.

Description: the memorial is 18m high and made of limestone. On the 4 sides with 4 allegoric figures: the Honour, the Obedience, the Vigilance and the Sacrifice- the main creeds of an Austrian soldier. A figure of a young woman symbolising Faithfulness can be seen in the building of the gothic-style column, with the keys of the castle. Opinions: the young woman represents either Austria or the young Mary Theresa. Monsters try to grasp here stretching from the pedestal in reference to the Hungarian soldiers.

Artists: Joseph C. Max (1804–1855) sculptor from Prague and Josef Andreas Kranner (1810–1871) architect and stone-mason from Prague.

Place and time of inauguration: on one of the central squares of Timisoara, notably the Jenő Prince (now Liberty) square, opposite the former City Hall, 17th January, 1853.

Afterlife: the Hungarian citizens of the town damaged the so-called „Shame statue” several times, as a result, the monsters were eradicated in 1885. After the change of imperium in 1918, the central figure symbolising Faithfulness was beheaded, the other 4 allegoric figures were eradicated. The memorial was taken from Liberty square to the cemetery in Lippai street for political reasons upon the instruction of the mayor of the town in 1936. The mutilated main figure was taken to Banat Museum where it is still in the garden. In 2013, the mayor wished to take the memorial to the renovated Lahovari (now Bălcescu) square, to the main square of Elisabeth-town part of the town, after its

renovation. The negotiation of the Hungarian lobby and the Hungarian civil associations proved to be successful: the controversial memorial was left standing in the cemetery.

27. Timisoara. Statue of Andton v. Scudier

Historical background: Anton Scudier (1818-1900) arrived in Timisoara in 1869, he was first the commander of the town, then the military commander of the whole Banat. He significantly contributed to the development of the town. Still in his lifetime, a statue was placed to honour him in the park bearing his name. This park was also established by him at a place where formerly the central cemetery could be found. The press of his time said that he himself financially contributed to the erection of the statue, and his widow partly financed the maintenance of the park and the statue after his death.

Description: bronze statue of a full figure on high pedestal. On it, a tablet with the following words: „Dem Andenken des Feldzugmeisters Freiherren ANTON SCUDIER, gewesenen Militärkommandanten von Temesvár/, Dem begeisterten Förderer der Verkehrs und Verschönerungs Interessen dieser Stadt/, /Dem Initiator dieser Anlage/, Als Zeichen dankbarer Anerkennung errichtet von der Bürgerschaft der kön. Freistadt Temesvár im Jahre 1881/. In English: In memory of baron ANTON SCUDIER / the former military commander of Timisoara /the enthusiastic supporter of the town's traffic and scenery / to pay our grateful respect /to the initiator of this institution / placed by the community of Timisoara in 1881. The peers were not enthusiastic about the statue and regarded it as one having „little artistic value “.

Artist: Richard Kauffungen (1854-1942), sculptor from Vienna.

Place and time of inauguration: City centre, Scudier park, 1881.

Afterlife: the statue was pulled down as a symbol of the Habsburg pressure on 26th October, 1918. A big clock was placed on the empty pedestal in the early 1920s, then came the Soviet Liberty memorial in

1962, the text of which was modified after 1990: now it is the memorial of the Romanian heroes.

28. Timisoara. *Piarist secondary school and the statues of the church*

Historical background: A school, a monastery and a church for the Piarists were planned by László Székely from Timisoara. They were built in 1908-1909. The building is one of the most remarkable artistic creations of the Hungarian secession. The gable of the secondary school's building was decorated with the Hungarian crown, whereas the monastery's coat-of-arms could be found on the building of the monastery. Statues were placed on the main building (St. Stephan, St. Emeric of Hungary), and on the church (St. Elisabeth, Ladislaus I of Hungary).

Description: big, 3m high statues carved from limestone of Sóskút.

Artist: György Kiss (1852-1919), sculptor from Budapest.

Present condition, Afterlife: the pedimented decoration of the monastery was removed on 20th October, 1920, the Hungarian crown on 22nd March, 1921. The statues remained intact at that time. Then intervened Onisifor Ghibu, a Romanian politician, theologist, university professor (it was also him that seized the Hungarian theatre in Cluj Napolca in a dictatorial manner), he was the one who brought about the animosity against the statue. His name is associated with „nation-saviour”, anti-Hungarian trials and aggressive actions between the WWs. He filed a claim against the Piarist secondary school in Timisoara. He visited the town in 1934 and was mad by the fact that the statues of the Hungarian saints were still in their places. He stirred up the Romanian elite, and the removal of the statues was ordered. It was a rather complicated task to remove the giant statues from 15m, as a result, all the statues were cut into pieces with the single exemption of the statue of St. Stephan, which resulted in the fact that the expert organizing the removal (Károly Götz, building master from Timisoara) was later charged with artifact mutilation. Augustin Pacha county bishop protested against

the profanation of the statues at the nuntius in Bucharest. There is no information about the later fate of the statues.⁷⁶

29. Timisoara. Iron soldier statue

Historical background: they served as a facilitator to encourage money collection through a „Benevolent committee) for a military relief fund. Their common feature is that they were made of wood, and the donors could hit iron needles into that statue to prove their charity, or they could fix tiny metal plaques – their size showed the size of their donation. Thus, as time went by, the statues turned into iron soldiers. The Hungarian statue was erected following the pattern from Vienna. The first was erected in Vienna in 1915 (*Wehrmann in Eisen*), and in Hungary in Bratislava in 1915. There were more statues of this kind in Transylvania (Sibiu, Cluj Napolca, Timisoara, Odorheiu), but it could be found in Southland, in Versec as well.

Description: the bust of the Timisoara iron soldier bears resemblance to the one unveiled in Vienna, although that shows a full figure. It feels as if we saw the same soldier in armour, the only difference lies in the way how they grab their swords. The erection of the Timisoara statue was mainly promoted by the German-speaking citizens, for them the Vienna artifact was regarded as an idol.

Artist: unknown.

Place and time of inauguration: presumably, it was erected next to the theatre – there is a picture of it but difficult to make it out. As it contains hardly any needles, there is the chance that it was placed on the public square towards the end of the war, in 1917 or 1918. It may be the reason why the statue is not listed in the register of the iron soldiers' (Munzel-Everling)⁷⁷ register.

Afterlife: the statue stood on its place only for a short time – it could not be found there towards the end of the war. First, it was taken to the infantry regiment No.61 in Timisoara, then the Banat museum took

⁷⁶ Uo.

⁷⁷ Munzel-Everling, Dietlinde: *Kriegsnagelungen, Wehrmann in Eisen, Nagel-Roland, Eisernes Kreuz*. Wiesbaden: 2008.

it over along with other military artifacts where it is still kept. The statue was exhibited in 2015 on a military history exhibition in the Banat museum.

30. Timisoara – Free village. Petőfi memorial

Historical background: the headquarters of József Bem marshal could be found in Free village next to Timisoara on 1st May, 1849, it happened here that he advanced Petőfi to the rank of major. Traditionally, this is also the place for the Hungarian community living in Timisoara to commemorate the Hungarian Revolution and War of Independence of 1848. The designation of the place was initiated by the Timisoara Soldiers' Association, the National Alliance and the Timisoara Soldier Statue Committee. A marble plaque was replaced to the side of a heightened earth pile with the words: „This is the place where in 1849 / the headquarters of /BEM JÓZSEF / marshal / could be found / where on 3rd May, 1849, / PETŐFI SÁNDOR / the acclaimed poet of our country / was advanced to the rank of major / In memory of these historical facts / to celebrate the half-century anniversary / of the Hungarian War of Independence / this memorial tablet / was placed /from public donations / on 30th July, 1899.” They started to create a more elevated memorial in 1912, and the current one was placed.

Description: the Petőfi-relief is in the central, heightened part of the memorial with the memorial tablet beneath, two bulging sidewalls protect the middle part, hereby creating a private place for the relief. The memorial is surrounded by an iron fence. Here is the text on the new tablet: „This is the place where in 1849 / the headquarters of / BEM JÓZSEF / marshal / could be found / where on 3rd May, 1849, / PETŐFI SÁNDOR /the acclaimed poet of our country / was advanced to the rank of major / In memory of these historical facts this memorial tablet / was placed /from public donations / on 10th November, 1912.” The old tablet was built into its backwall.

Artists: designed by László Székely (1877-1934) architect from Timisoara, the Petőfi portrait was created by András Sipos, vocational school

teacher for metal works, the engraving was made in the workshop of Kornél Tunner.

Afterlife: the memorial was damaged several times between the WWs. On 31st June, 1949, to mark the centenary of Petőfi's death, the Hungarian Peoples' Alliance placed a tablet on the memorial. It was brutally attacked several times, it was dishonoured. Szórvány Foundation renewed the memorial in 1999, then it was remodelled and ceremonially inaugurated again in 2016 due to the efforts of the Democratic Alliance of Hungarians in Romania

31. Dumbravita. Bem memorial

Historical background: Simultaneously with the unveiling of the Independence War memorial, a memorial tablet was placed to honour József Bem marshal.

Description: a marble memorial tablet.

Place and time of inauguration: on the wall of the Town Hall, 29th July, 1900.

Afterlife: unknown persons removed it from the wall, broke it into pieces and threw them into a well on 27th January, 1937.⁷⁸

32. Dumbravita. Independence war and Petőfi memorial

Historical background: the citizens of the village established by the treasury placed a memorial financed from public donations to commemorate the event that Bem marshal inspected his troops in this place in May, 1849. One of the officers was Sándor Petőfi.

Place and time of inauguration: village centre, on the square in front of the church, 29th July, 1900.

Afterlife: it vanished after the change of imperium. The local community placed a new memorial on the site of the former one on 29th July, 1945.

⁷⁸ Murádin 2008, *i.m.*

33. Varias. Memorial for Károly Huber

Historical background: Károly Huber (Hubay from 1879, 1828-1885) was a conductor, composer, violinist, music pedagogist, the father of Jenő Hubay, the world-wide well-known violinist. He was a violin teacher between 1852 and 1885 in the National Music School and the Music Academy. He got married again in 1880. The local community placed a memorial tablet on the house of his birth in 1889.

Description: the text of the first memorial tablet written in German and Hungarian languages is unknown, it disappeared.

Place and time of inauguration: house of birth in Varias, 1889.

Afterlife, Present condition: the former tablet was replaced with a new one in the 1920s, written in Romanian and German. The Hungarian translation says: „This is the house where Károly Huber composer was born on 1st July, 1827. He died on 20th December, 1885. His worshippers.”

34. Zsadany. Elisabeth column

Historical background: general – see Arad 18.

Description: a grey marble column with the portrait of Elisabeth and the text: „In memory of Her Majesty, Queen Elisabeth. 1898.”

Time of inauguration: 1898.

Afterlife: no information.

35. Jimbolia. Statue of József Csekonics

Historical background: József Csekonics (1757-1824) general officer, a great figure of the history of the Hungarian horse breeding, founder of the Hungarian national studs (Mezőhegyes, Bábolna). He bought the Jimbolia manor in Torontál county in the 1790s where he established a stud. His grandson, Endre Csekonics, built a palace in Csito, part of Zsombolya, designed by Miklós Ybl. The bust of József Csekonics was placed in the garden of this palace.

Both the sculptor and the time of its unveiling are unknown, moreover, it disappeared without any hint. The palace was ruined in 1937.⁷⁹

36. *Jimbolia. Kossuth statue*

Historical background: Kossuth became a legendary person, his cult was created still during the decades following his emigration after the tragedy of Világos, then after the reconciliation he was particularly admired for his anti-Habsburg stance in Transylvania. In the early 1990s, the citizens (mostly German and Swabish peoples) of Jimbolia erected a statue for Kossuth in the early 1900s.

Description: a bust on a high pedestal. The text cannot be spelt in the picture of it.

Artist: Ede Kallós (Klein) (1866-1950), sculptor from Budapest.

Place and time of inauguration: it stood in the park next to the station, 29th June, 1905. The unveiling ceremony was attended by Ferenc Kossuth, too.

Afterlife: it was bombarded after the Serbian invasion. (Jimbolia became part of the Serbian- Croatian-Slovenian Kingdom after Trianon, and it was annexed to Romania only in 1924, following a change of settlements.

5 Memorials and the local community

My collection consists of 85 ruined-destroyed-replaced or vanished⁸⁰ historical memorials. Is it a high or a low number? Compared to what? I have no knowledge of any collection of data concerning the Romanian part of the historical Banat, but it may be suggestive that I had been able to list 23 of them by my first lecture held in December, 2018, its written version⁸¹ contained 32 vanished/remodelled memorials, and I

⁷⁹ Borovszky 1912, *i.m.* 138.

⁸⁰ The expression „recycling” keeps cropping up, but as it refers to outdated things, I avoid using it. If I need to find a single word for this phenomenon, I prefer using the adjective „vanished”.

⁸¹ The published text: Istoria istoriei. Cum și de ce dispar monumente? /A történelem

have been able to reach this number since then. What I am sure about is that it is not the final number. In my opinion, it is not the cities (Arad, Timisoara), but the small villages where the still unlisted memorials will mostly appear, places where the local (Hungarian, German, Serbian) elite has not collected information about them. It is a well-known fact that the former press did not notify of the „countryside” (countryside compared to the regional centres and cities) events on a regular basis.

The question arises: is it possible to make generalisation based on this number of cases? How many cases are needed? When can something be designated as a „phenomenon”? As the historical region is not unified, what do the social-economic differences mean in this respect? Can we speak about common signs relating to the erection and hiding of memorials? Every case is different, however, we must assume some convergence of the causes. Even if there was vandalism committed not presumably but visibly.⁸² We are going to get a picture of the present situation, which must have some common features.

The first question of the researcher is: who hid and what kind of memorials in the years following WWI? Irrespective of the concrete person(s) in charge (besides the settling Romanian power, the Serbians also ruined memorials at their invasion in 1918, and in more cases the locals blame the Soviet military invasion for the destructions), the main question still exists: what may be the reason for intolerance regarding memorials stemming from a different era and community? The judgement is different depending on whether it happens during a military attack or a peaceful period after a war when pursuing a certain political line. It became clear for me after starting my collection work that some other questions should also be addressed, for example:

története. Hogyan és miért tűnnek el emlékművek?/ In: Bugarski, Stevan (ed.): *Темišварски зборник (Temišvarski Zbornik) vol. 11.* Novi Sad: Matica Srpska. 2019, 209-242.

⁸² When constructing the Iron Gates, nobody anticipated that the Széchenyi tablet or the Crown chapel in Orsova would be endangered, thus, they should have decided how to save them during work, however, no decision was made. Note: non-decision is also a decision from the point of view of public policy.

who erected the memorials, what sort of situation or reasons could trigger the public erection of the memorials.

Additional dilemma: can a research of this kind be finished? Is it necessary to deal with the topic in the future, is there anything else to find out? Yes. On the one hand, there are still unknown memorial-stories,⁸³ there are question to answer in connection with statues,⁸⁴ but even data collection may raise questions.⁸⁵ Research should be conducted to reveal what the local people preserved in their memory in connection with the ruthless interventions, how they were affected by losing their former, beloved environment and circumstances. There may be some written documents relating to this topic, but there is no information on their structured research. It would also be worth examining: what has been left? Taken into account the memorials, what did the new power tolerate and what not? I do not know about any research having this topic.

The first group of questions refer to the circumstances of the memorials' erection. The crucial question – the reason why the given memorial was placed and why exactly there – cannot be clearly

⁸³ One of the many examples: the Rákóczi-tablet near Orsova disapperad in a strange way, and it is suggested that it had happened before the finishing the construction of the Iron Gates. Who did it, when, why?

⁸⁴ The memorial plaqueette was unfixed from the backside of the Virgin Mary (or Dózsa) memorial in Timisoara, it was hammered down and the word „Hungarians” was removed from its engraving. As the plaquet was covered for a long time, it was not visible, the removed word was realised only when it went under general renovation last time. The question arises: who and when could remove this part of the engraving?

⁸⁵ For example, the issue of the Iron Guards. There is a postcard of Arad with the signature „Iron Guard”, and the scientists accepted the fact that it shows an iron guard. However, if we compare this sculpture to the Wehrmann in Eisen statues in Germany and Austria, it becomes immediately obvious that the Arad statue cannot be an iron guard, taken into consideration that iron guards were made of wood and promoted donations to the military fund, small plaqueettes were hammered into the wooden statue which covered that whole artifact over time – hence the name – and the size of the plaqueette implied the amount of the donation. The Arad iron guard is not made of wood, it has no needles and bears no resemblance to the genuine iron guard „discovered” in the museum storeroom in Timisoara. At the same time, it copies another Timisoara statue, with an engraving on its pedestal – based on a photo -: Statue of a soldier.

answered without having written instruments of that time. The ambition of the analysis below is to prepare the answer by trying to find answers to important, however, only additional questions with their analysis. These questions are as follows:

- a) what type(s) of memorial(s) did they place?
- b) where and when were they placed?
- c) who placed them?
- d) the „language“ of the memorials, their ethnical type.

Typology of the examined memorials:

Table 1.: Types of memorials

County /Type	Statue	Memorial tablet	Monument ⁸⁶	Other (eg. fountain)	Altogether
Arad	10	11	12	1	34
Caras-Severin	4	5	5	1	15
Timis	16 (+5) ⁸⁷	4	13 ⁸⁸	3 ⁸⁹	36 (+5)
Altogether	30 (+5)	18	30	5	85 (+5)

(Own compilaton – and every other table, too)

5.1 How erected memorials?

The strength of the local community may be inferred from the number of memorials referring to national persons / events and to local persons / events. It is also important to note the size of the population (regional centre, town, village) where the memorial was stood and the exact place of it.

⁸⁶ I listed as memorials every memorial consisting of more figures, even when the background of the statue comprises an integral part of an artistic work, in addition, obelisks, too.

⁸⁷ Here it is not only about 16 statues, as 3 of them were uninstalled from Madonna Pharmacy, and 4 from the Piarist School. That is altogether 21 statues. The statistics shows the number of cases, rather than the actual number of statues.

⁸⁸ I listed a memory stone, too.

⁸⁹ As for Elisabeth memory, there is no information on what kind of memorial it could be. I also listed here a big relief which used to be installed in the entrance room of the Timisoara County House.

Table 2.: Memorials in Arad county based on the size of the population of the settlement where they were erected and the character of the memorial

Arad county	City (Arad)	Town	Village	Altogether
Nation-related	9 ⁹⁰	5	1	15
Local-related	18 ⁹¹		1	19
Altogether	25	5	2	34

Table 3.: Memorials in Caras-Severin county based on the size of the population of the settlement where they were erected and the character of the memorial

Caras-Severin county	City (no)	Town	Village	Altogether
Nation-related		10 ⁹²	2 ⁹³	12
Local-related		1	2	3
Altogether		11	4	15

Table 4.: Memorials in Timis county based on the size of the population of the settlement where they were erected and the character of the memorial

Timis county	City (Timisoara)	Town	Village	Altogether
Nation-related	11	9	8	28
Local-related	3	3 ⁹⁴	2	8
Altogether	14	12	10	36

Tables 2-3-4. show a significant difference regarding the erection of memorials based on the size of the populations: in Arad and Caras-Severin a clear dominance can be experienced in favour of the cities, whereas in Timis county the situation is completely different, it is balanced. In this latter case, the local communities seem to be more active, although the local-related memorials dominate over the nation-related ones in Arad. What we can see appears to support the

⁹⁰ I regard the religious statues as having national importance. (Holy Trinity, St John of Nepomuk).

⁹¹ If the nationwide acclaimed writer eg. Gergely Csiky was born and attended school in the county, I consider him as a local person.

⁹² I count the spa towns as cities – now they are administratively cities.

⁹³ The Iron Gates and Zajkany are listed as villages, although they have no houses.

⁹⁴ I handle Révait and Hubay/Hubay as locals, though both of them have national significance. Nevertheless, the memorial was placed by the locals.

hypothesis that the more developed, middle-class countryside is more active in representing their local values. It is reasonable to suppose that less ideological objections are raised against the memorials of these communities.

The time factor of the erection of the memorials plays an instrumental role. Although dividing time into eras may often be subjunctive, the below division can be justified as the memorials dating back to 1880 or earlier can be grouped in one. The last period (after 1990) is needed as a tablet placed after this date has been removed.

Table 5.: Time division of the erection of the memorials

County/Time period	Before 1880	1880–1900	1900–1918	1920–1940	1945–1990	After 1990	Altogether
Arad	10	6	16	1	1		34
Caras-Severin	1	5	8	1			15
Timis	4	10	17	4		1	36
Altogether	15	21	41	6	1	1	85

There is a relation between the mood to erect a memorial and the general social situation: it does not exist in crisis. In view of this, it comes as no surprise that the most active period of memorial erection was between 1890 and 1914, the prime time of the Hungarian economic and cultural life. The low number between the WWs highlight that only few memorials were placed in that period, and, on the other hand, that they were not threatened by a change of power – even if the existence of the communist dictatorship was not without victims, either.

The ethnical categorisation of the memorials may help to decide who the memorial belongs to, who wished to place it. We would have a clearer picture if it was shown in every case who initiated its erection and we would have access to it – but it is not the case. The modernisation process was quite untypical in Banat as the communities did not distance themselves from each other but they competed with one another and it does not make it easier to find the correct ethnical categorisation. It is quite common in this area that a person is a

member of two or even three ethnical communities.⁹⁵ I categorised it as Hungarian (or German, Romanian, etc) if the invoked person or event was Hungarian, but in case of an association comprising non-Hungarian members, too, the categorisation was based on the language of the engraving. The data in table 6 are insensitive to the overlapping and transitions. Dual category (Romanian and Hungarian) means bilingual engravings, and Hungarian-German refers to a mayor (from Deta) with relations to both.

Table 6.: Ethnical categorisation of the memorials

County/ Category ⁹⁶	Hung.	Germ.	Rom.	Rom.- Hung.	Hung.- Germ	Ruler	Religious	Altogether
Arad	24 ⁹⁷			2		5	3	34
Caras -Severin	10		1			4		15
Timis	19 ⁹⁸	3	3		1 ⁹⁹	8 ¹⁰⁰	2 ¹⁰¹	36
	53	3	4	2	1	17	5	85

The ideological background, the message a memorial conveys may have significant importance for its opponents. Take a look at what topic and with

⁹⁵ The German Franz Herzog became an acclaimed Hungarian writer under the name Ferenc Hercog. The Hungarian feelings of György Klapka born in a German family are beyond any dispute. Hans Mokka was a Hungarian writer, too. The names Róbert Reiter (Hungarian writer) and Franz Liebhard (German writer) belonged to the same person.

⁹⁶ There was no Serbian memorial, this view is shared by Serbian historians, too, thus this category is not shown.

⁹⁷ I listed the statue of the rabbi in Hungarian, too.

⁹⁸ I regard the memorial tablet of Károly Huber as a Hungarian memorial, as he changed his name to Hubay 4 years before his death and his son became a worldwide popular violinist as Jenő Hubay.

⁹⁹ Kratzer Antal/Anton biztosan kétnyelvű volt, de Dettán az ő idejében jelentős volt a német többség, és a neve is német. Ugyanakkor a feljegyzések szerint a szobrán a neve magyarul szerepelt.

¹⁰⁰ The Rukavina memorial was prepared as a grant from the ruler, thus I categorised it with the monarchy.

¹⁰¹ One of the 3 statues vanished from Madonna Pharmacy was a religious one, the other 2 depicted ancient gods.

*what content these memorials represent.*¹⁰² Table 7 shows some elements from earlier tables, but it also contains important information.

Table 7.: Thematical categorisation of the memorials

County/Topic	Monarchy	Hung. public life	Rom. public life	Relig.	Milit.	Person of local import.	Altogether
Arad	5	12		3	2	12	34
Caras -Severin	4	8 ¹⁰³	1			2	15
Timis	8 ¹⁰⁴	13	3	2	2	8	36
Altogether	17	33	4	5	4	22	85

The comparison of table 6 and 7 shows what category was the most popular in the communities when choosing the topic of a memorial. With regard to the Hungarian public life, the memorials depict 20 persons of local importance, whereas this number is one for Romania and 3 for the Germans. It is surprising if we take into account that the towns erect Hungarian memorials,¹⁰⁵ that is, they merge into the national process, however, it is untypical of them to think of the representation of local values.

The researched cases also show that there used to be a memorial-cult. Queen Elisabeth was wildly mourned and regarded with deep sympathy after her death, and we can talk about Kossuth-cult, too. 10 out of the 17 monarchical memorials were devoted to Elisabeth, and 4 memorials were erected to commemorate Kossuth in the area.¹⁰⁶

¹⁰² An example of why this issue is problematic: In the area in question, there were two significant monuments erected as a commemoration of the revolution of 1848–1849: the Freedom statue of Arad, and the Rukinava statute of Temesvár. One commemorates the martyrs of the revolution, the other, glorifies the Austrian soldiers that pushed back the revolutionary army.

¹⁰³ The memorial tablet to commemorate the royal meeting held in Bath of Hercules is counted as Hungarian due to its Hungarian engraving.

¹⁰⁴ I counted the Rukavina statue here, the present to Timisoara from the emperor.

¹⁰⁵ Deta, Sacalaz and Cakova having at that time German-majority population stood a millennial obelisk, Carpinis with German majority erected a revolutionary cross and Bocsa with Roman-majority at that time also installed a revolutionary cross.

¹⁰⁶ The most „astonishing” one is the Kossuth-statue in Jimbolia as it was erected in a village 80% populated with Germans. The explanation may be adjustment to national

Taken into consideration that I cited the demographical weight of a local community as an aspect which can manifest from political point of view, too, it is worth studying the counties' ethnical situation, the presence of the local ethnicities respectively and their relationship with each other. I am going to show the data registered in 1900 and treat them as characteristic of the examined time period (from 1867 until WWI).

Table 8.: Ethnical division of the counties' population in 1900

County	Romanians (person,%)	Hungarians (person,%)	Germans (person,%)	Other (person)
Arad	277 420 (57,8%)	116 981 (24,4%)	62 983 (13,1%)	22 778
Caras-Severin	247 203 (74,9%)	8 318 (2,5%)	41 787 (12,7%)	32 441
Timis	211 748 (42,1%)	45 998 (9,1%)	195 588 (38,9%)	49 248
Arad city	13 810 (19,9%)	40 413 (58,3%)	12 843 (18,5%)	2 241
Timisoara	6 312 (10,4%)	19 162 (31,6%)	30 892 (51%)	4 185

Data source: data base based on the estimation of Árpád Varga E.¹⁰⁷

In spite of the fact that the local Romanian community dominated the population in Caras-Severin county and was in majority in Arad and relative majority in Timis, they failed to erect memorials before WWI, similarly to the local Serbians. Considering that the local Germans who enjoyed political dominance before the revolution and the reconciliation erected much fewer memorials, then it can be seen as a phenomenon. It is obvious in light of the foregoing that the majority (80%) of the memorials was erected after 1880.

This is one of the most successful periods in the Hungarian history as this is the time of the Millennium, the events of the revolution could be freely evoked, its scenes could be designated. Hungary and the Hungarian society had a golden era and the minorities did not want to be left out of it. A serious, nation-building policy was in place in the

cult.

¹⁰⁷ Source: <http://www.kia.hu/konyvtar/erdely/erd2002/csetn02.pdf> /, accessed: 2020.10.10.

years following the reconciliation which showed the same direction for the local community, it served as a unified pattern.¹⁰⁸ It can be the underlying reason for the fact that Swabish communities placed Hungarian memorials but not German ones, even if they could have found good historical reasons to do so.¹⁰⁹

Even in villages where the population was predominantly German (Sandra, Carpinis) or Romanian (Bocsa), more and more memorials with Hungarian relevance were erected. It clearly shows that it does not matter whether a local community is strong or not, it will not initiate the erection of monuments if they do not feel to be centrally supported. It may explain the fact that it was only after WWI that the Romanians placed their first memorials (Duca statues, Mocioni statues). Moreover, the Duca statues' emergence was triggered by a national urge following the assassination of the Romanian prime minister, which action was committed by a supporter of the Iron Guards. So far, only a single Romanian memorial has been erected out of public initiation. It tells a lot if we compare it to the 22 memorials of the (demographically much smaller) Hungarian community.

As a consequence, it can be said that the organisation of erecting a memorial rarely comes from the local community, the followed pattern is the central, national policy, the effect of the national programs and priorities are also determining, adjusting to it is automatic in places where the national processes are regarded important. Initiative is needed to publicise local values; the exception is where a city is big enough to ensure that the local elite and the financial source are capable of producing a different practise. It was the situation in Arad, and partly in Timisoara.

¹⁰⁸ We may ask the question: did they use any force in these cases? The answer is a firm „no“, as administration worked in a different way then.

¹⁰⁹ For example, colonisation of Swabish people in Banat. The second big wave of immigration (1744-1762), but mostly the third (1763-1772) would have provided a good reason to commemorate the 150th and 100th anniversary after the Compromise. It was completely left out.

5.2 *Who could hide memorials?*

Every state has sovereignty to decide on development of memory policy, however, there are expectations and unwritten rules. If you object to something, it can be expressed both in a respectful or an arrogant way. If you follow the story of the Banat memorials, it seems that the Romanian party failed to set, keep or abide by any rules after changing power.

After the change of power in 1918, Banat – the formerly Hungarian part – went under Romanian authority,¹¹⁰ which inherently involved the necessity to become part of the Romanian history. The new power demanded new approach to history, and, inevitably, a different memory. The Romanian power vanished the majority of the public symbols referring to the former system. The new power had to justify its legitimacy, it had to build up its own publicity.

The main reason for eliminating these memorials is the change in interpreting past after the change of system. The new power strived to restructure social space whereby it wished to regain the lost space¹¹¹ and gain space to be able to restructure memory. They justified their actions by invoking former violation of some historical truth, as the „foreign” authority excluded it from the local community-building processes. In other words, the new power only rectifies some wrong directions and situations. This universal process has more elements (changing street names, restructuring the social role of the church, replacing the former elite), our topic is removing former symbols.

Crucial questions for the opponents of the memorials:¹¹²

¹¹⁰ Hard though it tried, Romania did not manage to acquire the whole Banat. About 30% of it was awarded to Serbia and nearly 5% stayed with Hungary.

¹¹¹ Formerly, Banat did not belong to it, but the public discourse was built up in a way to imply it.

¹¹² There must be important questions if it wants to maintain the normal, bilateral relationship.

- a, Did the memorials threaten the new power?
- b, Did the memorials represent any community, ideology or person that highlighted the discrepancy between the ideology of the memorial and the aim of the Romanian power?
- c, To which extent was it necessary to hide the memorial from the aspect of symbolically gaining space?
- d, When did the removal of the memorial take place?
- e, Has there been any attempt later to rectify or historically retribute what has happened, and if yes, how was it realised?

The questions above have their relevance, though the answer to them can sometimes be very short. No listed memorial was able to pose threat to the new power as none of the vanished 85 memorials conveyed a message that would attack a community or a particular person. Reading between the lines the next statement can be made: community-building of a minority is not to be supported by the existing power resulting in the fact that the Romanian power wants to prevent the Hungarian community from building itself. As for the concrete method of selecting the memorials – as I have already stated – a parallel survey could contour it: it should be examined what has been left. Béla Barabás wrote that the first mayor of Arad after 1918 (Ioan Robu) methodically began the process.¹¹³ First, he required a register of every Hungarian-related statue, memorial and memorial tablet, then the next decade experienced their removal, with the single exception of a Munkácsy memorial tablet.¹¹⁴

Now, let us take a look at the ideologies and messages of the vanished memorials. Let us examine what topic, idea or person the Hungarian memorials in the first column of table 6 represented.

¹¹³ Cited by Ujj 2003, *i.m.*

¹¹⁴ Cynical question: how much tolerable is an acclaimed Hungarian painter than an outstanding writer? Why could they not leave the statue of Gergely Csiky Gergely on its original place? Maybe because it was in a central place, whereas the tablet was not positioned like that.

Table 9.: Technical categorisation of the vanished Hungarian memorials

County/ topic	1849-49	Millen- nium	Hung. hist.	Milit.	Writer, artist	Polit. nat. level	Person of local import.	Altogether
Arad	10	1		2	5 ¹¹⁵	1	7	26
Caras- Severin	2		4		1	1	2	10
Timis	8	2	2 ¹¹⁶	1	3	2	3 ¹¹⁷	21
	20	3	6	3	9	4	12	57 ¹¹⁸

If we want to understand the attitude of the new power, it can be said that the elimination of the memorials connected to the revolution of 1848-49, the Hungarian history and the Millennium are comprehensible – which method they used is out of the scope of this essay. Hence, it can be accepted in case of 29 memorials that they disturbed the new power. It is further encouraged by the revolution and the animosity between Romanians and Hungarians despite the fact that a revolution is regarded as a positive development in every country. The rejection of military memorials can also be understandable, but there is no explanation for the others. Why is a national politician not accepted who gave a helping hand to a local community and is honoured with a statue or other memorial?¹¹⁹ Artists (writers, musicians, scientists) deserve acknowledgement – all the memorials erected for them should have been preserved in their original condition like the Munkácsy memorial tablet in Arad.

The issue of symbolic occupation of space. Erection of a public statue and social publicity are considered as processes to practise standard Romanian-Hungarian rivalry, symbolic use and occupation of space. Due to the fact that the Romanian elite was afraid that the spaces

¹¹⁵ I list here the writer, the musician, the linguist even if the statue was erected at their birthplace.

¹¹⁶ The Virgin Mary memorial is known as Dózsa-memorial, too. Thus, I listed it here.

¹¹⁷ I list here Antal Kratzer with double origin (Hungarian, German).

¹¹⁸ Table 6 contains 53 Hungarian memorials, here there are 57. The cause of the difference is the different categorisation (Kratzer, Dózsa-memorial, the memorial tablets in Hungarian-Romanian are categorised here).

¹¹⁹ In most cases the gratefulness and acknowledgement of the local community was expressed.

primarily important for its aim to build a nation could be occupied, it simply seized the places formerly designated by the Hungarians. As part of the battle to win past, the dominant elite struggled to symbolically weaken the places that the other ethnic group had formerly designated or regarded as own. The Romanian space occupation consisted of 3 methods: 1. intensive space occupation (to occupy a central point), 2. extensive space occupation (to occupy the whole space in the town), 3. rival or competitive space occupation (to force Romanian memory in Hungarian spaces).¹²⁰ These strategies were mostly based on one another, e.g. when the Hungarian memorial located in the centre was removed by the Romanian power and replaced with a Romanian memorial.

Then comes the next question: where were the vanished memorials placed originally?

Table 10.: Location of the memorials

County/ Location	Central	Park, grove	Former location	Settlement boundary, other	Altogether
Arad	10	3	15	6	34
Caras-Severin	7	1	7		15
Timis	15	9	9	3	36
Altogether	32	13	31	9	85

Table 10 clearly shows that centrally located memorials are mostly endangered at the change of power, most vanished memorials stood in the middle of a village or a town. There are also examples of simply removing the memorial and erect it in a different, less central area¹²¹ as the aim is merely to get the central space. It is astonishing to see the high number of Hungarian memorials¹²² originally erected on the scene of an event and later vanished, although in Arad county more former scenes are connected to the revolution of 1848-49 and

¹²⁰ Halbwachs, *i.m.* 203.

¹²¹ Bocsa, revolutionary obelisk, more religious statues.

¹²² Due to the low number of cases, the relevant statement can be made here about the German memorials.

in Caras-Severin county with the escape of 1849 discussed above. In one case, they were hidden due to stormy historical decades, whereas in the other case, water flushed away the onetime artistic treasures. The most endangered memorials were the ones related to 1848-49, these centrally-placed memorials were all damaged to some extent. However, the memorials erected in parks and groves have a higher chance of survival.

The date of the memorials' destruction may suggest how the Romanian memory policy have changed over time.

Table 11.: Time periods when the memorials became hidden

County/Period	1918–1920	1920–1940	1940–1945	1945–1990	After 1990	Not known	Removal to another place	Altogether
Arad	1	10		5	4	12 ¹²³	2	34
Caras-Severin	1	7	2 ¹²⁴	3 ¹²⁵	2			15
Timis	6	11	2 ¹²⁶	8	3	5	1 ¹²⁷	36
Altogether	8	28	4	16	9	17	3	85

This categorisation is based on historical periods. It can be seen that most memorials were damaged in the period between the two WWs, however, I expected more vandalism in the turbulent years around 1918-1920. It also comes as a surprise that no Hungarian memorial became the victim of the authorities' intolerance in the taut situation after the Vienna decision (August, 1940). The most story-telling work of this era is entitled *Fate and symbol* by József Méliusz. With regard to the unknown cases, most of them concern the Elisabeth memorials.

¹²³ I listed more 1848-1849 memorials here: presumably most of them vanished between 1918 and 1920.

¹²⁴ One of them is the Duca-statue, the other is the destruction of the Elisabeth-statue associated with the Soviet army.

¹²⁵ All 3 disappeared due to the construction of the water plant.

¹²⁶ Both are Duca-statues.

¹²⁷ The cross of 1848 in Carpinis was left eroded. Question: how consciously was it careless.

What I was absolutely shocked by is the high number of memorial destructions during the years of normality after 1990. Data support that a change in the Romanian memory policy took place in this period. It was characterised by the fact that the authorities did not have direct, explicit attack, but, on the other hand, it condones at atrocities aiming at damaging memorials. Examples of it can be the plaque in Bath of Hercules to mark the meeting of kings (it was unfixed and hidden by unknown persons, those who remember it mentioned that the plaque had been taken away by a crance, thus, the culprits could not be „simple” thieves, it must have been coordinated technical operation), the Hunyadi mace in Zajkany (in 1992, on the summit of Zajkany at the height of 669m, „unknown persons” used heavy machines to pull down the Hunyadi memorial, the mace disappeared and was hauled from Ostro lake in 1993, it was taken to the museum in Sarmizegetusa and finally it disappeared from there. In April 2003, even the last pieces of the memorial vanished, the pedestal was demolished.) The statue of Áron Chorin, rabbi in Arad, was stolen in 1997, nobody inspected the case. The statue of St. John of Nepomuk was beheaded in 1999 by an unknown person. It happened earlier, still in 1921, that the additional figures of the Kossuth statue in Arad were stashed with a carriage drawn by 6 horses – unknown persons of course. The question is whether there were any efforts to find these unknown persons. The number of these cases imply that the authorities collaborated with them, either directly or indirectly.

Another question can be posed: where could the removed memorials be stored, temporarily or permanently? Budapest offered a civilised solution with the Memento Park exhibiting all the uninstalled statues which were doomed to be unacceptable due to their relation to the socialist past. Romania, however, is ignorant to this issue. It must be noted that these statues were sometimes taken to museums (Grieving Arad, the statues of Gergely Csiky and János Darányi in Arad, the relief about the visit of Franz Joseph in Timisoara along with the statues of the Madonna Pharmacy, the central figure of Rukavina memorial, the Iron Soldier, the relief of Zsigmond Ormós), and there was a single

example of displaying the statue later again: the Iron Soldier was shown at a military history exhibition in 2015. It is sad to say that several statues subject to the increment weather are crumbling in the museum garden.

In view of these, it comes as no surprise that the Gábor Fábíán statue (Arad) taken to the horse stud later vanished, or that the pieces of the Kossuth memorial taken to the dungeon of the castle were subsequently discovered on building sites. All these examples underline the fact that these memorials are handled in a deeply irresponsible way. Another sorrowful example can be the memorial of Joseph II in Radna (from 1775, presumably the oldest from the county), which has been lying uninstalled in the dense grass at the foot of the hill, without being paid any attention. It is also an irresponsible action when a statue „disappears” during renovation (statue of Kálmán Szerdahelyi from the foyer of the Arad theater), or the same happens to a memorial (from the Artisans’ Culture House).

On the other hand, the responsibility of the citizens can also be felt: the owner of the house where general officer József Nagy-Sándor stayed in Arad preserved the memorial between 1922-1989 even if the new owner threw it out, or, the owner replaced the Franz Ferdinand memorial plaque from the front wall to the garden to save it. It is also suggestive that the Széchenyi memorial was left overflowed on the Romanian side, but the Traianus memorial was saved on the Serbian side by replacing it 40m higher during the construction work of the Danube water plant.

Notwithstandingly, the most ruthless attack against these memorials is not their complete destruction, but inbuilding some parts of them into new, Romanian memorials. Augustin Pacha, the Catholic bishop in Timisoara, protested against the cutting, vandalism, profanism of the statues of the Piarist School at the nuncius in Bucharest. The destruction and „recycling” of the memorials are ethical sins that cannot be qualified as these actions include vandalism, theft, misappropriation, conversion when the pieces are simply built into own works. We can mention more cases like this: the Révai (now Eminescu) obelisk

in Sannicolau Mare, the statue of a soldier in Bocsa (now military memorial). The Hungarian engraving on the millennial monument in Deta was deleted in 1923 and replaced by the list of names of local victims of the war, then in the 1990s the turul on the top was replaced by an orthodox stone cross. The statue of general officer Scudier in Timisoara was pulled down in 1918, but a huge clock was placed on its pedestal in the early 1920s, then a Soviet Liberty monument came in 1962, the engraving of which was rewritten after 1990: now it is a monument to commemorate the Romanian heroes.

And now let us see the two most violent cases.

The first is the Francisca Maderspach memorial which was stood by the sons to mark the place where their father had committed suicide due to the public flogging of the wife. The memorial was subject to vandalism in the 1920s, the bust and the engraving were removed. The rest was taken and installed in the centre of the village where a marble memorial plaque was fixed to it with the names of WWI heroes. The list was extended to contain the names of WWII heroes. Is it possible to talk about a memorial erected with piety when it was brought to life with the destruction of the sons's clemency, in an impious way?

The second case is connected to Caransebes where the statue from the Franz Joseph memorial was removed after the change of imperium which triggered protest from the local Romanian intelligentsia. The rest of the memorial was preserved. The 2,75 m high bronze statue was discovered in the storeroom of voluntary firemen in Caransebes in 1924. The military officers wanted it to be taken to Bucharest to melt it and they wanted to replace it with the bronze statue of Ferdinand I on the same pedestal. The town's leadership managed to postpone it until 1930 when the decision was made that the town did want to keep the statue as it represents invaluable artistic value having been prepared by Fadrusz and Rollinger. The statue was still in the storeroom of the local fireman in 1931. Its pedestal is standing there, holding the statue of general officer Ion Drăgălina since 1943. Two important facts must be mentioned here: on the one hand, the local policy was reluctant to abide by the central policy in an issue related to the Austrian monarchy.

On the other hand, the central policy prevails, the statue is removed and the local Romanian elite accepts to dishonour the memorial by replacing Franz Joseph with the Romanian general officer Drăgălina.

Another, almost incredible case is the relaxing bench of Ferenc Deák in Bath of Buzias, which was stood in the central park. The article of a Romanian journalist, L. Păun, contends that it used to be the relaxing place of Nicolae Iorga, a Romanian historian and politician. This statement amounts to misappropriation of the past.

The language of the engravings on the memorials plays an instrumental role in more cases. The plaque of Károly Huber erected in Varias was uninstalled in the 1920s and replaced by a new one written in Romanian and German languages. Hereby, they could also change the date of it as common-sense dictates that a plaque installed during the dual monarchy should have been written in Hungarian, too. The tablet of Queen Elisabeth fixed in Marilla was also replaced by a new one, also written in Romanian and German languages, and was reinstalled in the town.

Fortunately, in some cases they wish to reinstall the former statue: some marble pieces of the damaged Elisabeth statue were accidentally unearthed in 2000. A curator of the local museum said that they wished to renovate the memorial. It is good but far from being enough. There are more examples of changing the engraving, however, the reinstalled memorial should contain a reference to the person who placed the original one.

It is worth mentioning that numerous memorials, mostly the statues and plaques of culturally important figures, were replaced by the local Hungarian community after 1990 – often financially supported by Hungary. There are only few memorials reinstalled on their original places as these places have been permanently restructured. We should not be surprised by it as strengthening national identity with the help of memory construction is still a political program.

6 For epitome

I devoted this essay to research the memorials of a bigger (historical) region that were removed due to some turning points in the history. I did not look at all of them, only at those which had been installed in public places (except few cases). I did not pay attention to the memorials placed in churches or churchyards, cemeteries, public institutions. The Romanian territory of the historical Banat does not completely correspond to current county boundaries (only New Arad is part of Banat, but Arad not, Cazan gorge and Orsova used to belong here but not anymore). Owing to historical convergencies between the current Arad county and Temesköz, it is sensible to accept the area divisions applied here, and it must also be noted that nowadays the local elites (including Romanians) have a tolerant and open approach to the historical Banat.

53 of the concerned cases are related to Hungarians, but if we count the tablets with double relations, this number is 55 (almost 65%), there are 4 Romanians, 3 Germans and there is no Serbian case. The majority of the memorials was inaugurated (about 80%) after 1880. This period is one of the most successful ones in the Hungarian history, the time of millennium, and the war of independence could be freely recalled. Hungary and the Hungarian society was so successful that the minorities wanted to be part of it, however, at the same time, they failed to represent the values and historical events of their own communities. The analysis clearly shows: it is rarely the local community than the central, national policy that initiates the erection of a memorial, and maybe it is not part of the political platform but abiding by the national programs and priorities is an existing phenomenon. A triggering event is needed to have the urge to publicise a local value via memorials. The exception to it is a city that is big enough to form a new practise with the help of the local elite and substantial budget like in Arad and partly in Timisoara.

After the change of the political elite in 1918, Banat was forced to become embedded in a new region (being under Romanian authority)

and the Romanian history. The elite required a new approach to history and, inherently, a new and different historical memory. The Romanian authorities vanished most of the public representations related to the former system as they had to legitimise themselves and build up new public representations. The new power strived to remake social space by acquiring public places and refurbishing them to support their own aims. This attack against the former memorials poses the question: what message did the vanished memorials convey? The answer is unambiguous, none of them threatened the new power due to the fact that none of the 85 vanished memorials represented any message against a community or a person. In some cases, the reason could be the new power's struggle to restructure social space, however, in many cases no explanation can be offered.

The most violent treatment of these memorials is not their annihilation, rather, the use of their parts in new (Romanian) memorials, exemplified by the Maderspach memorial, Franz Joseph memorial in Caransebes, Révai memorial in Sannicolau Mare. The question arises in connection with the „remake” memorials (fallen heroes in Rusca Montana, statue of general officer Drăgălina in Caransebes: Is it possible to talk about a memorial erected with piety when it was brought to life with the destruction of the son's clemency, in an impious way?

In more cases, pulling down a memorial required serious logistics; thus, I have to ask: what role did the authorities play in vanishing them?

It is also a crucial question where to store the vanished memorials, either temporarily or permanently. Romania failed to make the slightest effort to solve it. Although some artifacts were taken to museums, but their storage is not resolved, they are not displayed with the exception of a single one, to the best of my knowledge.

Notwithstanding, a historical apology would be needed for the vanished memorials, the events after 1990 show a tendency that the dominant Romanian memory reconstruction is in place, there is still room for ruining these memorials, no one is willing to admit any mistake. There is no sign of restitution.

Bibliography

- Assmann, Jan: *A kulturális emlékezet. Írás, emlékezés és politikai identitás a korai magas kultúrákban*. Budapest: Atlantisz Kiadó. 1999.
- Balázs Károly (összeáll.): *Elpusztított emlékműveink: az utódállamokban elpusztított vagy megrongált emlékműveink és szobraink képeslapokon*. Budapest: Notesz+ Kft. 1997.
- Borovszky Samu (szerk.): *Torontál vármegye*. Magyarország Vármegyéi sorozat. Budapest: Apollo Irodalmi és Nyomdai Részvénytársaság. 1912.
- Böttcher, Bernhard: *Gefallen für Volk und Heimat: Kriegerdenkmäler deutscher Mindenheden in Ostmitteleuropa während der Zwischenkriegszeit – Studia Transylvanica, Band 39*. Köln: Böhlau Verlag. 2009.
- Corduneanu, Isabela: *Identitate, memorie și multiculturalism: reconsiderări metodologice*. In: *Alter* 1999/12.
- Csallóközi Zoltán: *Koszorú. Lakitelek: Antológia* Kiadó. 2020.
- Dávid Gyula – Veress Zoltán (szerk.): *Jelképes jelenléteink. Emlékhelyek – extra Hungariam. Határtalan Hazában 5*. Budapest–Kolozsvár–Stockholm: Erdélyi Könyv Egylet. 2007.
- Durkheim, Émile: *A társadalmi tények magyarázatához*. Budapest: Közgazdasági és Jogi Könyvkiadó. 1978.
- Foucault, Michel: *A hatalom mikrofizikája*. In uő.: *Nyelv a végtelenhez. Tanulmányok, előadások, beszélgetések*. Debrecen: Latin Betűk Alapítvány Kiadó. 2000 [1976].
- Gálfy Gyula: *Magyar vonatkozású emlékek Oravicabányán és vidékén*. In: *Művelődés* 1998/2.
- Gyáni Gábor: *A történelem mint emlék(mű)* Budapest: Kalligram Kiadó. 2016.
- Halbwachs, Maurice: *A kollektív emlékezet*. In: Felkai Gábor – Némédi Dénes – Somlai Péter (szerk.): *Szociológiai irányzatok a XX. század elejéig*. Budapest: Új Mandátum Kiadó. 2002.
- Hobsbawm, Eric J. – Ranger, Terence (eds.): *The Invention of Tradition*. Cambridge: Cambridge University Press. 1983.
- Homár Zoltán: *Első világháborús emlékművek Szabolcs és Szatmár vármegyékben a két világháború között (1918–1938)*. Doktori értekezés. Debrecen: 2019.
- Iliesiu, Nicolae: *Timișoara, monografie istorică*. Timișoara: Ed. Planetarium. 2003.
- Iványi István: *Lugos rendezett tanácsú város története*. Szabadka: Szerző kiadása. 1907.

- Jakab Albert Zsolt: *Emlékállítás és emlékezési gyakorlat. A kulturális emlékezet reprezentációi Kolozsváron*. Kolozsvár: Kriza János Néprajzi Társaság – Nemzeti Kisebbségkutató Intézet. 2012.
- Lefebvre, Henri: *The Production of Space*. Oxford: Basil Blackwell. 1991. [francia eredeti 1974].
- Makkay Botond: A boksánbányai honvédszobor. *Művelődés* 2009/12.
- Miklósik Ilona: XIX. századi temesvári szobrok – és ami belőlük megmaradt. In: Kiss Ferenc: *Mindenki Kalendáriuma*. Temesvár: Reflex Kft. 2004.
- Miklósik Ilona: Temesvár régi szobrai. In: *Régi(j)óvilág* 2009/9.
- Munzel-Everling, Dietlinde: *Kriegsnagelungen, Wehrmann in Eisen, Nagel-Roland, Eisernes Kreuz*. Wiesbaden: 2008.
- Murádin Jenő: *A megsebzett szobor*. Kolozsvár: Kriterion Kiadó. 2008.
- Nora, Pierre: A politikától veszélyeztetett történelem. In: Szász Anna Lujza – Zombory Máté (szerk.): *Transznacionális politika és a holokauszt emlékeztörténete*. Budapest: Befelejtetlen Múlt Alapítvány. 2014.
- Nora, Pierre: *Emlékezet és történelem között. Válogatott tanulmányok*. Budapest: Napvilág Kiadó. 2009.
- Oláh Ilona: *Emlékek és szobrok*. Szatmárnémeti: Profundis. 2006.
- Olay Ferenc: A magyar emlékművek sorsa az elszakított területeken, *Budapesti Szemle* (626–628) 1930.
- Pótó János: *Az emlékeztetés helyei – Emlékművek és politika*. Budapest: Osiris Kiadó. 2003.
- Pótó János: *Emlékművek, politika, közgondolkodás: Budapest köztéri emlékművei, 1945–1949. Így épült a Sztálin-szobor, 1949–1953*. Budapest: MTA Történettudományi Intézet. 1989.
- Puskel Péter: *Emléklapok a régi Aradról (1885–1945)*. Arad: Irodalmi Jelen Kft. 2005.
- Puskel Péter: Az egykori Kossuth szobor évfordulóján. In: *Nyugati Jelen* 2019. szeptember 18.
- Szekernyés János: *A magyarság emlékjelei a Bánságban – Semne evocatoare ale maghiarimii în Banat – Evidence of Hungarian Presence in the Banat*. Temesvár: HangArt könyvek. 2013.
- Teodorescu, Virgiliu Z.: Monumentul de for public, carte de vizită a identității unui popor. In: Șerbu, Miliana – Gheorghe, Constantin (eds.): *Globalizare și identitate națională*. București: Editura MAI. 2006.
- Truță, Horia – Demșea, Dan: *Monumente de for public, însemne memoriale, construcții decorative și parcuri din județul Arad /Arad megyei köztéri emlékművek, emlékjelek, díszépítmények és parkok/*. Arad: 2007.

Ujj János: *Emlékhelyek és emlékművek Arad megyében*. Arad: Alma Mater Alapítvány. 2003.

Ujj János: *Első világháborús emlékművek Aradon és Arad megyében*. Arad: Szabadság-szobor Egyesület. 2014.

Vicze Károly (összeáll.): *Temesközi emlékhelyek*. Temesvár: Szórvány Alapítvány – Marineasa Kiadó. 2008.

Chapter IV

Minority Rights Then and Now

- 1. Gábor Kardos:** Trianon and International Law:
Arguments of Hungarian Scholars of International
Law against the Treaty of Trianon

- 2. Laura Gyeney – Ágoston Korom:** Restitution
for Immovable Property: the Beneš-Decrees
from the Perspective of European Union Law
– the Legal Status of Claimants for Confiscations prior
to 1948 on the Grounds of the Principle of *lex specialis*

TRIANON AND INTERNATIONAL LAW: ARGUMENTS OF HUNGARIAN SCHOLARS OF INTERNATIONAL LAW AGAINST THE TREATY OF TRIANON

1 Introduction¹

Hungary ended the three world wars of the 20th century on the side of defeat, with extremely severe damage in both the First and Second World Wars and the Cold War.² In the first two cases, as opposed to the Cold War, as they were real interstate wars, they were concluded by a peace treaty. While the severe damage caused by the real-world wars was the result of military devastation as well as the provisions of the peace treaties, in the case of the Cold War it was caused by the human and economic consequences of *Zwangordnung* exercised by a Soviet-type system.³

The 100-year-old Treaty of Trianon in 2020, like other documents signed in palaces in the vicinity of Paris, was in fact a continuation of the First World War by other, also brutal, means.

The Hungarian legal literature in international law between the two world wars devoted intense attention to potential arguments against the Treaty of Trianon. In connection with the anniversary,

* University Professor, LL.M. Ph.D. Dr. Habil, Department of International Law ELTE-Faculty of Law and Political Sciences, kardos@ajk.elte.hu.

¹ The author is hereby grateful for the valuable comments of the anonymous reviewers.

² Interpreting the Cold War as World War III was the author's idea. However, as this is often the case in social sciences, a quick internet search revealed that it had already come to the minds of others. American political scientist Robert Kagan put it in this sense in the title of an article when he described the tension between the world powers as returning to World War III. Kagan, Robert: Backing into World War III. In: Foreign Policy 2017/02/06, <https://foreignpolicy.com/2017/02/06/backing-into-world-war-iii-russia-china-trump-obama/>, accessed: 08. 12 2020.

³ *Zwangordnung* (coercive order), a concept of Hans Kelsen's legal philosophy.

this short article draws attention to the arguments of some prominent Hungarian international lawyers without seeking a complete picture in the presentation of the Hungarian legal literature in the matter. These arguments will be discussed below, after an overview of some general issues of the peace treaties and the state of peace.

This piece of writing may be considered as an essay in international law, if any, and only its main statements are document and the sources of the cited findings. The author sought to combine a descriptive and analytical approach.

2 The major issues of form and content of the Treaty of Trianon

The preamble (introduction) to the peace treaties sets out the aims of the parties and has often advocated mutual condonation in the past. The text of the treaty usually contains a clear proclamation on the end of the war and the restoration of amicable relations. In addition, the text includes detailed political and territorial provisions, followed by the regulation of financial, economic and legal issues. An important part of the peace treaty is the settlement of safeguards and the verification of enforcement.

The ceasefire is the cessation of military operations by mutual consent before peace is reached. (Some truces are in fact preliminary peace treaties, as they contain not only military but also political, economic and other provisions. Such as the Hungarian Armistice Agreement signed in Moscow in January 1945.)

Among the goals included in the preamble to the peace treaties, the phrase “eternal peace” used formerly has been replaced by “firm and durable” in modern texts. Political settlement usually limits the capacity of the defeated State to act, primarily by the limitation of armaments or prohibiting alliances or unification with another State. An example of the latter is the Treaty of Saint-Germain-en-Laye (1919) with Austria after the First World War, which stated that Austria

should refrain from establishing an economic and political union with Germany. The Treaty of Trianon after the First World War (1920), as well as the Treaty of Paris after the Second World War (1947), limited the number and military equipment of the Hungarian army.

Territorial settlement means, on the one hand, the restriction of the use of the territory of the State and the surrender of certain parts of it on the other hand. Such a restriction of territorial sovereignty is demilitarisation in peacetime and a ban on the continuation of military operations in wartime, which is called neutralisation. The surrender of the territory is in fact the result of employing force, and the peace treaty often merely sanctions the military occupation of the victors. Thus, with the Treaty of Trianon, the territory of Hungary decreased from 282,870 km² to 92,963 km², which was further eroded by three municipalities (Pozsony / Bratislava Bridgehead) after the Second World War by the Treaty of Paris.

The aim of the economic and financial provisions is, in principle, restoration, which requires the defeated party to compensate for the damage caused by the war. In the spirit of this concept, industrial equipment was dismantled and delivered, reparations were paid, and property abroad was liquidated after the First and Second World Wars. The provisions of the Treaty of Paris, which also compensated Czechoslovakia, although Hungary did not wage war against that State, and forced the Hungarian State to renounce its very significant economic claim against Germany, had a serious impact.

Peace treaties may also settle issues such as punishing war criminals, or in this regard, proclaiming mutual condonation, the exchange of prisoners of war, the settlement of contracts between private individuals, and the reinstitution of interstate agreements suspended due to war.

The guarantees of a peace treaty in the Middle Ages were the taking of oaths, hostages and the pledge over certain areas. In the twentieth century, demilitarisation, neutralisation, the stationing of peacekeepers, as well as guarantees from one or more world powers,

such as the United States in the case of the Israeli-Egyptian peace (1978), fulfil this function.

Peace treaties have in many cases also modified or renewed the general order of coexistence of States. This means, on the one hand, that peace treaties often lay down fundamental principles of political settlement. Such as, the principle of the balance of power in the Peace of Utrecht (1713). On the other hand, peace treaties may also provide for participation in institutions of the international order. The peace treaties concluded in the vicinity of Paris, which ended World War I, included the Covenant of the League of Nations, and in this way, the defeated became members of the organisation. The peace treaties by enhancing the fundamental norms of general international law also foster the new international order. This is how freedom of navigation on international rivers was enshrined in the Final Act of the Vienna Congress.

3 War and peace

International law has long considered war to be natural. The States were either at war or living in peace with each other. International law thus laid down rules for both situations. This is also why Hugo Grotius gave the title *On the Law of War and Peace* to his great work. Moreover, apparently not independently of the former, in Western culture, war has emerged as a predominant means of civilization.⁴

The irony of history and the history of international law is that the third round of the 1899 and 1907 Hague Peace Conferences was scheduled to be held in 1915. This had to be dispensed with because of the outbreak of World War I.⁵

The end of the state of war, given the many problems it raises, is usually achieved through a peace treaty. It is only in general because, according to the practice of states, a war can be concluded in such a way that, at the same time as or after the suspension of hostilities, a step

⁴ Gittings, John: *The Glorious Art of Peace: From Iliad to Iraq*. New York: Oxford University Press. 2012, 15.

⁵ See <https://www.britannica.com/event/Hague-Conventions>, accessed: 08. 12. 2020.

is taken between the parties which clearly indicates mutual peaceful intentions. Such a step could be the conclusion of international treaties or the establishment of diplomatic relations. For example, the Swedish-Polish (1716), Spanish-French (1721), and French-Mexican (1867) wars ended without a peace treaty. The legal effect of a unilateral declaration on the end of a war depends on a declaration of similar content or at least expressing acceptance of some sort from the other side. Russia made such a unilateral statement on 10 February, 1918, but Germany did not accept it. Peace can also be restored through a joint declaration. Since the end of World War II, there has been no peace treaty between Japan and the Soviet Union or its successor, Russia, which was concluded in 1956 with a joint declaration. The declaration stated that the state of war between Japan and the Soviet Union would end with the entry into force of the declaration and that peaceful relations would be restored.⁶

Negative peace between States, i.e. the absence of the overt use of force, is essentially equivalent to stabilising the *status quo*. If we think in terms of positive peace, we need to strike *a delicate balance between peaceful change and stability*.⁷ As we will see later, after World War I, the “peacemakers” made an attempt to establish an international legal basis for such a change, but it was not meant seriously.

Today’s map of Europe is essentially a consequence of modern-day peace treaties. The means of this were territorial changes, the demarcation of state borders, the abolition of empires and the creation of new States. The peace treaties *transformed the political environment*, linking territorial provisions to the overall stability of interstate relations. As Lord Castlereagh stated in connection with the end of the Napoleonic Wars, the real protection of borders is that it is usually not possible to change them without⁸ the belligerent aggressor waging

⁶ Joint Declaration by the Union of Soviet Socialist Republics and Japan, October 19, 1956, <https://worldjpn.grips.ac.jp/documents/texts/docs/19561019.D1E.html>, accessed: 08. 12. 2020.

⁷ Rumpf, Helmut: The Concepts of Peace and War in International Relations. In: *German Yearbook of International Law* 1984, 437. (Emphasis added by the author.)

⁸ Well, the English politician did not foresee what would happen in the 1930s. The United Kingdom and France, as great powers interested in the existing relations, allowed Hitler to change the German borders and to enter the war after the invasion

war with those interested in the existing relations.⁹ Thus, peaceful territorial change is very rare, simply because States consider their territory as a source of their greatness and glory.

The peace treaties that ended the First World War marked a turning point¹⁰ in the history of such agreements. The change, which had already begun in the second half of the 19th century, mainly following the German-French agreement of 1871,¹¹ showed a tendency of becoming increasingly stringent. This was complemented by the conviction of the victors of the First World War that in their struggle they fought for the enforcement of international law, a *morally superior goal*.¹² This belief was mainly related to two events. On the one hand, that in 1914 Germany attacked Belgium, which had a permanently neutral status under international law, and a year later in 1915 it sank the civilian ship *Lusitania* albeit with a prior general warning.

The stringent peace treaties and the confident moral superiority of the victors led to the strong dicta of the peace treaties signed in the palaces in the vicinity of Paris between 1919 and 1920: land acquisition, economic and security requirements were met to a much greater extent than in previous post-war settlements. Therefore, it is no wonder that the term *Versailles-Diktat* has become common in Germany, as has the "*trianoni diktátum*" in Hungary.¹³ The heavy obligations presented in

of Poland in "a long, brooding silence," (Churchill, Winston: *World War II. Volume I*. Budapest: Europe 1989, 154.), i.e. followed by a deceptive or strange war. It is another matter that this passivity was probably also related to a bad conscience over the peace treaty that ended the First World War.

⁹ Cohen, Raymond: *International Politics. The Rules of the Game*. London – New York: Longman, 1981, 86.

¹⁰ Steiger, Heinhard: Peace treaties from Paris to Versailles. In: Randall Lesaffer (ed.): *Peace Treaties and International Law in European History. From Late Middle Ages to World War One*. Cambridge: Cambridge University Press. 2004, 59–99.

¹¹ See: Tomuschat, Christian: The 1871 Peace Treaty between France and Germany, and the 1919 Peace Treaty of Versailles. In: Lesaffer 2004, *i.m.* 382–396.

¹² Payk, Marcus M.: „What we seek is the reign of law”: the legalism of the Paris Peace Settlement after the Great War. In: *European Journal of International Law* 28(3) 2018, 809–824.

¹³ As Daniel Schwartz rightly points out, Brian Orend’s wording, which calls both the dictated and negotiated peace treaties as a *peace settlement*, is clearly contradictory.

these contracts and imposed unilaterally on the defeated parties may indeed justify the former designations. No matter how we may evaluate the content issues, they formally appeared in the form of a contract.

4 The arguments of Hungarian international lawyers

Trianon shocked Hungarian society, and the legal profession was no exception to this effect. It was an obvious task for Hungarian international lawyers to scientifically process any potential arguments against the Treaty of Trianon and make them available to Hungarian diplomacy. They were aware that legal arguments could be important for an isolated State with a severe lack of international resources. In addition, they could perceive the peculiar nature of their situation. In the case of an argument in international law, one must envisage the uncertain content of the rules set out in international legal sources and the ambivalence of one's own position, which stems from the fact that if one undertakes to represent a particular, one-state perspective, then it must be carried out by interpreting universal norms.¹⁴

Before presenting the arguments of Hungarian scholars of international law, it is worth briefly clarifying the issue *that could not be invoked* then and cannot be invoked today: the lack of intention of the State to enter into a treaty.

In the context of a peace treaty, the question arises as to what extent it should reflect the intention of the defeated party to conclude a treaty.¹⁵

See Schwartz, Daniel: The Justice of Peace Treaties. In: *The Journal of Political Philosophy* 20(3) 2012, 274, illetve Orend, Brian: Just post bellum: the perspective of a just-war theorist. In: *Leiden Journal of International Law* 20(3) 2007, 575–576.

¹⁴ Koskenniemi, Martti: Foreword. Martti Koskenniemi: Foreword. In: Jones, Fleur – Joyce, Richard – Pahuja, Sundhia (eds.): *Events: The Force of International Law*. Abingdon: Routledge – Milton Park. 2011, XIX.

¹⁵ In the vast majority of cases, there is clearly a winner and a loser in a peace treaty. However, this may not be clear in some instances. This was the case, as one of my anonymous reviewers pointed out, for example, in the case of the Vasvár Peace of 1664. Indeed, in the Peace of Vasvár, although the Hungarian orders later gave a well-founded assessment of the signing of the treaty, the Porta could not have expected more favourable conditions even in the event of victory Tarján M. Tamás: A vasvári

It is clear that such an international agreement incorporates conditions dictated by the winning party. International treaties, like any other legally binding agreements, should be based on the genuine intention of the parties to conclude an agreement. It follows from sovereignty that international law could not oblige a country against her will, in fact, no restriction may be presumed.¹⁶ It would be an inherent requirement for the sovereignty of States to have a consensus without exception in international legal decision-making.¹⁷

Current international law is based on the UN Charter and the Convention on the Law of Treaties, done at Vienna on 23 May 1969.

The UN Charter generally prohibits the threat and use of force in interstate relations. Article 52 of the 1969 Vienna Convention, entitled “Coercion of a State by the threat or use of force” provides as follows.

“A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.”

The cited article of the said Convention adopted by a large majority of signatory States at the Vienna Conference, taking into account Articles 44 and 45, may be established as the grounds for the invalidity of an international agreement, the safeguard of free consent of the signatories and a sanction for enforcing the conclusion of a treaty by threat or use of force.¹⁸ However, Article 52 is not applicable to peace treaties, even if the defeated party has been forced to acquiesce to it by the threat or use of force, despite being opposed to it. The practice

béke. http://www.rubicon.hu/magyar/oldalak/1664_augusztus_10_a_vasvari_beke/, accessed: 08. 12. 2020.

¹⁶ *S.S.Lotus Case* (France v. Turkey) Judgment P.C.I.J. Ser. A, No. 10, (1927) 4.

¹⁷ The consent of every State is not necessary for the validity of general customary law, likewise it is not needed for the validity of the rules of *jus cogens* and *erga omnes* in international law either.

¹⁸ Forlati, Serena: Coercion as a Ground Affecting the Validity of Peace Treaties. In: Cannizzaro, Enzo: *The Law of the Treaties Beyond the Vienna Convention*. Oxford: Oxford University Press. 2011, 321.

of States does not call into question the validity of peace treaties.¹⁹ Although it was noted in the UN International Law Commission that Article 52 was to be applicable to all treaties after the entry into force of the UN Charter, it was added that “No doubt” this is not the case with peace treaties.²⁰ This expressly reaffirms the otherwise general prohibition of retroactive effect in international agreements, which in this case may have arisen, because the Convention considerably consolidated existing customary law.

The reason why this rule of nullity cannot be applied is related to the exceptional nature of peace treaties, which is that the validity of such international conventions simply does not require the genuine contractual intention of the defeated party. On the one hand, this may derive from trying to avoid any potential destabilisation of peace treaties.²¹ Moreover, the wording of Article 52 makes it clear that only the threat or illegal use of force may invalidate a peace treaty, *i.e.* a peace treaty imposed on an aggressor State by a victim of the aggression may be considered as valid, and this is also the case if the Security Council acts subject to Chapter VII of the UN Charter.²²

Thus, in the current context of international law, peace treaties do not require consensus between winners and losers.

As a matter of fact, *even before the prohibition of launching a war of aggression under international law*, it was the case that genuine contractual intention of the defeated party was not required for the peace treaties to be valid. Thus, the same applied to the First World War even if there was no general ban on the use of interstate force, *i.e.* international law allowed “to settle disputes by employing reciprocal military force”.²³ Consequently, although States were required to attempt at settling their international disputes peacefully, it was internationally

¹⁹ *Ibid.* 324.

²⁰ YILC 1966, Vol. I 247, para 7.

²¹ Forlati 2011, *i.m.* 321.

²² Aust, Anthony: *Modern Treaty Law and Practice*. Cambridge: Cambridge University Press. 2007, 256–257.

²³ Buza, László: *A revízió nemzetközi jogi alapjai*. Budapest: Politzer Zsigmond és fia kiadása. 1933, 13.

legitimate to use military force to resolve their conflicts. The defeat suffered in the war did not constitute a coercion entailing the nullity of the peace treaty.²⁴ Until 1969, the rules of international law concerning international treaties were governed by customary law. Given the thousands of years of practice and the hardly questionable *opinio iuris*, which is confirmed by the fact that States have been rotating between a winning or losing position, it is acceptable under customary law if there is a lack of genuine intent on the part of the latter in peace treaties.

Neither subject to international law at the time nor today can it be argued that the Treaty of Trianon was *created simply as a result of coercion*.

Thus, this issue was not raised by the Hungarian international lawyers of the period. However, this did not mean that all forms of military force could have been regarded as legal. Thus, it was clearly in violation of international law for one State to launch an armed attack against another in relation to which it had committed itself to respect its perpetual neutrality under international law, or to slaughter wounded enemy soldiers in gross violation of the right to war. This includes when, in violation of the international rules of warfare, the victorious party, in breach of the truce agreement it has adopted, militarily violates the provisional demarcation lines designated therein, and in force until the peace treaty provides otherwise.

The arguments of some authors of Hungarian jurisprudence between the two world wars *extended beyond* the (positive) international law of the time. These were basically twofold. On the one hand, they invoked political norms without international legal force, also relying on their moral strength, according to which assuming that during the post-World War I settlement the Entente Powers would have wished to enforce the rights of peoples, with special regard to the right to self-determination.²⁵ Diplomat Antal Ullein-Reviczky, a lecturer in international law at the University of Debrecen, discusses this issue widely in his book published in Paris. The aim of the author was to

²⁴ Flachbarth, Ernő: *A területi revízió jogi alapjai*. Budapest: Erdélyi Férfiak Egyesülete. 1933, 8.

²⁵ The self-determination of peoples became mandatory under international law only by incorporating it into the UN Charter as a principle.

establish the right to a referendum on the detached territories under international law.²⁶

On the other hand, attention was drawn to the unreasonable nature of the provisions of the Treaty of Trianon. The memoir by Ödön Kuncz, university professor and dean of the Pázmány Péter University in Budapest, which was drawn up for and at the request of Sir Robert Gower, a British politician who had been inaugurated as Honorary Doctor, pointed out that the assertion of ethnicity brought about a more mixed and unfair status also from a national aspect, moreover, established unviable States, rendering any substantive cooperation among them impossible, preventing the existence of a large economic area capable of consumption. The memoir formulates minimum objectives of territorial revision, hoping in the enforcement of the principle of national self-determination.²⁷

The other part of the arguments *remained within the scope of international law at the time*. These arguments focus on the issue of the validity of the Treaty of Trianon.

As it has already been said, the fact that the Treaty of Trianon was *generally* the result of coercion in violation of international law could not be relied upon. At the same time, during the First World War, in addition to legal coercion, the Entente Powers *used illegal coercion against Hungary, crossing the demarcation lines designated by the truce agreement*.²⁸ A truce agreement puts an end to the fighting, and the demarcation line is to be used to separate the troops. The Entente Powers breached not only the ceasefire in Padua on November 3, 1918, concluded with the Monarchy, but also crossed the demarcation lines established by the truce agreement concluded with Hungary ten days later in Belgrade, continuing to invade the territory of the Hungarian State. According

²⁶ Ullein-Reviczky, Antal: *La Nature Juridique des Clauses Territoriales du Traité de Trianon*. Paris: Editions S. Pedone. 1936, 5–44.

²⁷ Kuncz Ödön: *A Trianoni békeszerződés revíziójának szükségessége. Emlékirat, amelyet a budapesti Királyi Magyar Pázmány Péter Tudományegyetem Jog- és Államtudomány Karának Dékánja intézett Sir Robert Gower angol képviselőhöz*. Budapest: Királyi Magyar Egyetemi Nyomda. 1934, 9–11.

²⁸ Buza 1933, *i.m.* 13–14.

to the latter, they should have stopped south of the upper river Nagy-Szamos, Beszterce (Bistrița), Maros (Mureș), the mouth of the Maros (Mureș), Szabadka (Subotica), Baja, Pécs, and south of the Drava.²⁹

The question now is whether the illegal use of force was of such gravity as to render the Treaty of Trianon invalid. Ernő Flachbart, a university professor at the University of Pécs³⁰ and Professor László Buza from Szeged, found no grounds for invalidity³¹ of the Treaty of Trianon as a whole, however with regard to the provisions governing borders they did, as we shall see. The former author also considered the illegal use of force to be such, while the latter did not.

Customary international contract law at the time, like the 1969 Vienna Convention on the Law of Treaties determining the current legal situation, considers deception of a material circumstance to be one of the grounds for invalidity of an intergovernmental agreement. In the context of diplomatic documents that have since become available and disclosed, it has become clear that, for the sake of gaining territories, the states concerned, whose representatives were free to participate in the preparation of peace, have substantiated their claims with falsified ethnic statistics.³² However, they could not have relied on this not only because the documents relating to them could hardly be known by them, but also because it could have been relied on only by the Entente Powers, which could in fact be deemed as having been deceived.

In connection with the fraud, Hungarian scholars of international law between the two world wars referred to the letter of the French Prime Minister Alexandre Millerand dated 6 May, 1920,³³ as misleading the Hungarian government and as a result of which they signed the Treaty of Trianon. This letter was an accompanying letter to the Treaty

²⁹ Flachbart 1933, *i.m.* 9–10. (emphasis added by the author).

³⁰ *Ibid.* 9–10.

³¹ Buza 1933, *i.m.* 12.

³² Makkai Béla: Trianon – „hol nemzet süllyed el...” In: *Polgári Szemle* 2019/1–3, 344–363, available at: <https://polgariszemle.hu/archivum/166-2019-augusztus-15-evfolyam-1-3-szam/magyar-tortenelem/1036-trianon-hol-nemzet-sullyed-el>, accessed: 10. 10. 2020.

³³ The official Hungarian translation of the letter is to be found in: *Az „Ordo” Törvénytára 4. A Magyar Békészerződés és a becikkelyező törvény magyarázata. Ordó Törvénytára 4.* Budapest: Ordo. 1921, 2–5.

of Trianon and called upon the Hungarian government to sign it. Misrepresentation is considered to be the most important argument against Trianon.³⁴ It is worth quoting the most important, relevant section of this letter:

“However, the Allied and Associated Powers did not forget the idea that guided them when imposing borders, and they also addressed the possibility that the frontiers thus established may not fully meet ethnographic or economic expectations everywhere. An on-the-spot inspection may necessitate the redrawing of the borders determined by the Treaty in certain places. However, such an inquiry cannot be carried out today, because it would delay the conclusion of peace for an indefinite period, whilst the whole of Europe yearns for it. But then, once the Frontiers Committees have begun their work, and if they believe that the measures of the Treaty, as we have said above, are unjust in some places, and that it is in the public interest to remedy this injustice, they will be able to report to the Council of the League of Nations. In this case, the Allied and Associated Powers give their consent that, at the request of one of the Parties, the League Council may offer its good offices for the purpose of altering the original frontier, under the same conditions, in a peaceful manner where a Frontiers Committee deems it desirable.”³⁵

In its memorandum of 17 May 1920, the Hungarian Government expressly referred to the above and signed the peace treaty on that basis, upon the assumption that the promise would be honoured by the victors. Not only did the letter deceive the Hungarian government, but an ancillary contract was concluded with the letter and the memorandum, and the victors failed to fulfil their obligations arising therefrom.³⁶

³⁴ Ullein-Reviczky 1936, *i.m.* 133; Buza 1933, *i.m.* 23; Flachbart 1933, *i.m.* 11.

³⁵ Az „Ordo” Törvénytára 4. *i.m.* 3–4.

³⁶ Flachbart 1933, *i.m.* 11.

Hungarian international lawyers also cited Article 19 of the Covenant of the League of Nations, under which the General Assembly thereof could call on member states from time to time to revise treaties whose survival would jeopardise peace. However, the actual amendments would have had to be decided by the parties themselves, as stated by the Legal Committee of the League of Nations in connection with a treaty of 1904, which Bolivia wanted to revise.³⁷

The provision paving the way for peaceful changes was, in principle, very weak and basically remained on paper regarding the border issues specified in the peace treaties. This is despite the fact that, in the case of Hungary, for example, the Venice Protocol of 13 October 1921 called for a referendum on the Treaty of Trianon concerning the allegiance of Sopron and its vicinity. An example of a substantive change was the replacement of the Treaty of Sévres, which was binding on Turkey, with the Lausanne Convention. However, this was driven by Turkey's armed resistance.

Arguments of international law are not formulated and do not exert an effect, or on the contrary, fail to succeed in a vacuum. This was also the case with the Hungarian arguments under international law expressed in connection with the Treaty of Trianon.

The tragic nature of the Treaty of Trianon is hard to dispute from a Hungarian perspective. Although it can be argued that the Treaty of Trianon would have had such an advantage that Hungary got rid of ethnic issues. On the one hand, this can hardly be considered justified - considering the case of the German minority during the period of Nazi agitation - and on the other hand, it would have been much better if a more balanced situation had been created with regard to minorities with neighbouring States. Not to mention that the need for change launched the Hungarian State on a path of compulsion in foreign policy.

After 1927, when Hungary's isolation in foreign policy diminished, and thus the possibility of change seemed to be enhanced, Hungarian

³⁷ *Uo.* 23.

international lawyers presented their arguments. Although they did not result in the expected revision, they proved several things:

On the one hand, there have been reasonable grounds to raise doubts under international law concerning the Treaty of Trianon due to the illegal use of force in violation of international law and fraud.

On the other hand, the reference to the Millerand letter underlined that the Entente Powers did not present the territorial issue as completely closed. Moreover, the insertion of Article 19 of the Covenant of the League of Nations seemed to provide some sort of institutional means for change, at least in principle.

In theory, therefore, it would have been possible to consider the need for revision as an international legal dispute. This was in the spirit of the age, no wonder that the Permanent Court of International Justice was established and operated during this period.

Bibliography

- Aust, Anthony: *Modern Treaty Law and Practice*. Cambridge: Cambridge University Press. 2007.
- Buza László: *A revízió nemzetközi jogi alapjai*. Budapest: Politzer Zsigmond és fia kiadása. 1933.
- Cohen, Raymond: *International Politics. The Rules of the Game*. London – New York: Longman. 1981.
- Flachbarth Ernő: *A területi revízió jogi alapjai*. Budapest: Erdélyi Férfiak Egyesülete. 1933.
- Forlati, Serena: Coercion as a Ground Affecting the Validity of Peace Treaties. In: Cannizaro, Enzo: *The Law of the Treaties Beyond the Vienna Convention*. Oxford: Oxford University Press. 2011.
- Gittings, John: *The Glorious Art of Peace: From Iliad to Iraq*. New York: Oxford University Press. 2012.
- Kagan, Robert: Backing into World War III. In: *Foreign Policy* 2017/02/06, <https://foreignpolicy.com/2017/02/06/backing-into-world-war-iii-russia-china-trump-obama/>, accessed: 08. 12. 2020.
- Koskenniemi, Martti: Foreword. Martti Koskenniemi: Foreword. In: Jones, Fleur – Joyce, Richard – Pahuja, Sundhia (eds.): *Events: The Force of International Law*. Abingdon: Routledge – Milton Park. 2011.
- Kuncz Ödön: *A Trianoni békeszerződés revíziójának szükségessége. Emlékirat, amelyet a budapesti Királyi Magyar Pázmány Péter Tudományegyetem Jog- és Államtudomány Karának Dékánja intézett Sir Robert Gower angol képviselőhöz*. Budapest: Királyi Magyar Egyetemi Nyomda. 1934.
- Makkai Béla: Trianon – „hol nemzet süllyed el...” In: *Polgári Szemle* 2019/1–3, available at: <https://polgariszemle.hu/archivum/166-2019-augusztus-15-evfolyam-1-3-szam/magyar-tortenelem/1036-trianon-hol-nemzet-sullyed-el>, accessed: 10. 10. 2020.
- Orend, Brian: Just post bellum: the perspective of a just-war theorist. In: *Leiden Journal of International Law* 20(3) 2007.
- Payk, Marcus M.: „What we seek is the reign of law”: the legalism of the Paris Peace Settlement after the Great War. In: *European Journal of International Law* 28(3) 2018.
- Rumpf, Helmut: The Concepts of Peace and War in International Relations. In: *German Yearbook of International Law* 1984.
- Schwartz, Daniel: The Justice of Peace Treaties. In: *The Journal of Political Philosophy* 20(3) 2012.

Steiger, Heinhard: Peace treaties from Paris to Versailles. In: Randall Lesaffer (ed.): *Peace Treaties and International Law in European History. From Late Middle Ages to World War One*. Cambridge: Cambridge University Press. 2004.

Tarján M. Tamás: A vasvári béke. http://www.rubicon.hu/magyar/oldalak/1664_augusztus_10_a_vasvari_beke/, accessed: 08. 12. 2020.

Tomuschat, Christian: The 1871 Peace Treaty between France and Germany, and the 1919 Peace Treaty of Versailles. In: Randall Lesaffer (ed.): *Peace Treaties and International Law in European History. From Late Middle Ages to World War One*. Cambridge: Cambridge University Press. 2004.

Ullein-Reviczky, Antal: *La Nature Juridique des Clauses Territoriales du Traité de Trianon*. Paris: Editions S. Pedone. 1936.

RESTITUTION FOR IMMOVABLE PROPERTY: THE BENEŠ-DECREES FROM THE PERSPECTIVE OF EUROPEAN UNION LAW - THE LEGAL STATUS OF CLAIMANTS FOR CONFISCATIONS PRIOR TO 1948 ON THE GROUNDS OF THE PRINCIPLE OF *LEX SPECIALIS*

1 Introduction

The subject of the present study is Slovak Act NO. 503/2003 Coll. on the Restitution of Agricultural Property¹ (hereinafter the Slovak Restitution Act or the Restitution Act) and the Slovak administrative and judicial practice interpreting it, which in our view is incompatible with the requirements of EU law since it essentially disregards the special provisions of the law in question, highlighting the general provisions. Indeed, while the above-mentioned act allowed, as a general rule, restitution for immovable property confiscated only during „the decisive period“, i.e. between 25 February 1948 and 1 January 1990, the explanatory provisions of the act, exceptionally, in the context of special proceedings also offer the opportunity to seek to recover agricultural land confiscated by way of the 1945 decrees. However, the latter option only applies to persons who had not previously been convicted of fascist crimes by the court.

It will be explained in detail below why the Restitution Act 2003 falls within the scope of *ratione materiae* and *ratione temporis* of EU law. As a preliminary point, it should be noted that requests for restitution

* Laura Gyeney: associate professor - Pázmány Péter Catholic University - Faculty of Law and Political Sciences, Department of European Law, gyeney.laura@jak.ppke.hu; Ágoston Korom: Researcher - Institute for the Protection of Minority Rights, Assigned Lecturer - Károli Gáspár University of the Reformed Church in Hungary - Faculty of Law, korom.agoston@uni-nke.hu.

¹ Slovak Act NO. 503/2003 Coll. on Restitution Concerning Agricultural Property.

could be submitted for a further eight months after the accession of the Slovak Republic to the EU, i.e. from 1 May 2004 to 31 December 2004, thus leaving no doubt as to the applicability of EU law. Moreover, the legislation contained directly discriminatory provisions concerning nationality and residence, in breach of EU law, given that only persons of Slovak nationality and those residing in Slovakia could submit claims for compensation. Over the last decade and a half, the Slovak public administration and the courts, including the Slovak Supreme Court, have taken different views as to whether the scope of the legislation in question extends to persons whose agricultural property was confiscated before “the decisive period”, i.e. 25 February 1948.² At the same time, it is a disquieting development that the practice of lower courts and administrative bodies now seems to be consolidating following the latest decisions of the Slovak Supreme Court, which are in our view highly questionable. According to this practice, under Slovak law, apart from any action taken before the Constitutional Court, it is not possible to reclaim agricultural land confiscated before „the decisive period”, i.e. 25 February 1948.

The main purpose of this paper is to examine whether EU law requires an interpretation of the „explanatory provision” of the legislation in question in such a way that, contrary to the case law of the Slovak Supreme Court, it allows the reclaim of confiscated agricultural land before the above-mentioned „decisive period”. At first sight, this interpretation seems highly questionable, as EU law does not require a Member State to provide restitution for immovable property confiscated before its accession to the EU, nor does it specify the period during which a property was confiscated for which a Member State should compensate. At the same time we need to see that, if a Member State still decides on restitution after joining the EU, the rules of EU

² Two different interpretations have emerged in relation to the provisions of the legislation in question: according to the first view, exceptionally, persons from whom property had been taken before 1948 may also request the return of their property. According to the second interpretation, the exception in the explanatory provision of the Act means persons from whom their property was confiscated under the 1945 legislation but after 1948.

law will apply to the restitution. Thus, agricultural property will be governed by specific internal market rules relating specifically to the free movement of capital.³

In our view, as already mentioned above, it is beyond dispute that the legislation in question falls within the scope of *ratione materiae*⁴ and *ratione temporis* of EU law, given that applications could be submitted up to eight months after accession but only with the discriminative restriction described above. This is confirmed by the position of the European Commission, which has been expressed on several occasions in its answers to questions for written answer.

In the following, after a brief historical introduction to the Beneš Decrees and the circumstances surrounding the birth of the legislation in question, we will first scrutinize the criteria on which the legislation on the free movement of capital and the general principles of EU law may be based as regards the reclaiming of land. In doing so, we will carry out an in-depth analysis of the relationship between the legal institution of restitution and EU law, the Commission's position on the legislation in question and, finally, the applicability of general principles of EU law, including the *lex specialis*.

³ According to the case law of the CJEU, measures of Member States relating to immovable property must be examined primarily in relation to the free movement of capital. According to the Court, Directive 88/361 / EEC, which provides for an indicative list of the operations covered by the free movement of capital, has retained its dominant position, despite its repeal by the Treaty of Amsterdam. Although Annex I to the Directive does not expressly mention the institution of restitution in the list, as stated above, its contents do not constitute a taxative list which would exhaustively define the types of movement of capital. See Court of Justice of the European Union, Judgment C-370/05, Uwe Kay Festersen, ECLI: EU: C: 2006: 635; Judgment in Case C-452/01, Margarethe Ospelt and Schlössle Weissenberg Familienstiftung, ECLI: EU: C: 2003: 493.

⁴ Question for written answer: E-011857/2013. On 20 January 2014, Viviane Reding, on behalf of the European Commission explained that Member States are free to decide whether they want to compensate for goods confiscated before their accession to the EU. However, where restitution measures fall within the temporal scope of Union law, the Member State must take into account the provisions on the free movement of capital when applying them.

2 Historical background: the Beneš decrees and their legal aftermath

President of the Czechoslovak Republic, Eduard Beneš blamed the „overly lenient” ethnic policy between the two world wars for the break-up of Czechoslovakia.⁵ He saw the solution in the creation of the nation-state and the unilateral expulsion of national minorities. The emigrant government and the Slovak National Council thus voluntarily began to prepare the deportation of Hungarians after the signing of the ceasefire agreement in January 1945. On April 4, 1945, the so-called Košice government program was announced in Košice, which provided for particularly severe measures for the Hungarian and German minorities who were considered war criminals.⁶ As a result of this program, they soon disbanded their associations, ordered the confiscation of their properties, the closure of Hungarian schools, and the banning of the Hungarian language from public life. The first mass deportations took place in May, and in August the Hungarians were collectively deprived of their citizenship. The implementation of the government program in Košice was ensured by the subsequent presidential decrees and the laws issued by the Slovak National Council (hereinafter: SNC). Between 14 May and 27 October 1945, Eduard Beneš as President of the Republic issued 143 decrees, of which about thirteen directly and twenty indirectly affected Hungarians and Germans adversely, who had been found collectively guilty.⁷ For the purposes of our analysis the most important one is decree 104/1945, which provided, among other things, for the confiscation of the agricultural property of Hungarians and Germans.

⁵ The first disintegration of the Czechoslovak Republic.

⁶ Horváth Attila: A Beneš-dekrétumok és a hozzá kapcsolódó diszkriminatív intézkedések Csehszlovákiában 1945 és 1948 között.(The Beneš Decrees and related discriminatory measures in Czechoslovakia between 1945 and 1948.) In: Attila Horváth – Ágoston Korom (ed.): *A Beneš-dekrétumok az Európai Parlamentben.* (‘The Beneš decrees in the European Parliament’) Budapest: NKE. 2014, 20–23.

⁷ *Ibid.*

The issue of the Beneš Decrees had already been on the table before the enlargement of the European Union in 2004. Prior to the accession of Slovakia and the Czech Republic to the EU, the Sudeten Germans opened discussions on the decrees, particularly in connection with the accession of the Czech Republic. The legal opinion issued by the European Commission in the form of the “Frowein Report” was commissioned to close the decree disputes, in which it was clearly stated that the decrees did not constitute an obstacle to the accession of the Czech Republic,⁸ to which the European Commission still refers in its legal resolutions on the decrees.⁹ At the same time, we have to see that the report was limited to the Czech Republic and drew conclusions from it as to the Slovak legal system, i.e. it did not examine Slovakia’s situation with regard to the decrees at all but merely „made assumptions” that they did not constitute an obstacle to Slovakia’s accession to the EU.¹⁰

At this point, we consider it important to make a clear distinction between the requirements that can be imposed as a political or legal expectation of the accession of a candidate country to the EU and the strict EU legal requirements that each Member State must enforce in its own legal system once the accession process is completed in accordance with the principle of loyalty enshrined in the Treaties.¹¹ The mere fact that legislation in breach of EU law had already been in force in the

⁸ This opinion is based, inter alia, on the assumption that, from the moment of accession, all EU citizens will enjoy equal rights in the Czech Republic.

⁹ Anikó Mészáros – Ágoston Korom: A Benes-dekrétumok tegnap és ma az Európai Parlamentben. (The Benes decrees in the European Parliament yesterday and today.) In: *Ibid.*, 29–34.

¹⁰ This paper takes a different EU law approach from the one of the II. Juhász petition concerning the decrees.

¹¹ Pursuant to Article 4 (3) TEU, the Union and the Member States shall, in accordance with the principle of sincere cooperation, mutually respect and assist each other in carrying out tasks which flow from the Treaties. Member States have a specific and general obligation to take action to implement their EU obligations, based on the principle of loyalty, while refraining from any conduct that runs against EU objectives and rules. László Blumán: *Az Európai Unió joga a gyakorlatban – a Brexit után.* (The law of the European Union in practice - after Brexit). Budapest: HVG-ORAC For rent. 2020, 50.

legal system of a Member State at the time of its accession cannot in any event justify the infringement itself.¹²

However, it should be emphasized that the decrees or other legislation adopted before the accession of the Member State in question to the EU are not contrary to EU law, provided that during their application after the accession of the Member State to the EU no decisions are taken in breach of EU law,¹³ in accordance with the principles of *ratione temporis* of the Court of Justice of the European Union (hereinafter referred to as CJEU).¹⁴

As is well known, the accession of a State to the EU, does not require it to provide restitution under EU law for immovable property taken before accession unless the accession criteria themselves so require.

Moreover, the EU legal order does not lay down criteria as to which periods of confiscation of immovable or other property should the restitution process concern if it eventually takes place. This position was also confirmed in the European Commission's response to a 2014 written question.¹⁵ In its reply mentioned above,¹⁶ the Commission also emphasized that if a Member State nevertheless opted for restitution after its accession to the EU, it would fall within the scope of EU law, in particular the economic freedom of movement of capital, whose prohibition criteria concerning the prohibition of discrimination on grounds of nationality must be complied with.

The Slovak Restitution Act 2003, which we examine here, made it possible to submit claims for restitution after the accession of the Slovak Republic to the EU, i.e. for the period from 1 May to 31 December 2004,

¹² Court of Justice of the European Union, 6/64, *Flaminio Costa v E.N.E.L.* judgment, ECLI: EU: C: 1964:34.

¹³ This holds true if the legislation does not in itself impede the functioning of the internal market ie it does deter citizens of other Member States from investing in real estate.

¹⁴ A policy decision prior to the accession of the Member States would have been best suited to eliminate legislation declaring collective guilt, which would therefore no longer have adverse legal consequences under EU law.

¹⁵ Question for written answer: E-011857/2013. See footnote 4.

¹⁶ *Ibid.*

subject to a time-limit provided, inter alia, that the persons concerned must have Slovak citizenship and permanent residence.

At this point, it is necessary to address the applicability of EU law to this rule. With regard to the 2003 Law on Restitution for Agricultural Property, the applicability of EU law was essentially based on two factors:¹⁷ on the one hand, as emphasized earlier, the Slovak Republic acceded to the European Union on 1 May 2004, while the legislation provided for the possibility to submit a claim for restitution until 31 December 2004. Those eight months therefore established the temporal scope of the applicability of EU law.¹⁸ On the other hand, as is well known, a cross-border element is always required in order to enforce the rights deriving from the EU legal order with regard to fundamental

¹⁷ More about the EU legal requirements for the free movement of capital in relation to real estate: Szilágyi János Ede: Agricultural Land Law – Soft law in soft law, In: *Hungarian Yearbook of International Law and European Law* 2018, 189-211.; János Ede Szilágyi: Az Egyesült Államok és szövetségi államainak mezőgazdasági földtulajdon szabályozása a határon átnyúló földszerzések viszonylatában. ('The regulation of agricultural land ownership in the United States and its federal states in relation to cross - border land acquisitions'). In: *Miskolci Jogi Szemle* (Miskolc Legal Review) 2017/2. special number; Szilágyi János Ede - Raisz Anikó - Kocsis Enikő Bianka: New dimensions of the Hungarian agricultural law in respect of food sovereignty. In: *Journal of Agricultural and Environmental Law* 22/2017. Mihály Kurucz: Gondolatok a magyar földforgalmi törvény uniós feszültségpontjainak kérdéseiről. ('Thoughts on the issues of EU tensions in the Hungarian Land Transaction Act.') In: József Szalma (ed.): *A Magyar Tudomány Napja a Délvidéken*. ('The Day of Hungarian Science in the South'). Novi Sad: Hungarian Scientific Society of Vojvodina. 2015, 120-173. Mihály Kurucz: *A mezőgazdasági ingatlanok agrárjogi szabályozása*. ('Agricultural law regulation of agricultural real estate'). Budapest: Mobil Kiadó. 2001, 240; Mihály Kurucz: *Az európai agrárjog alapjai*. ('Fundamentals of European Agricultural Law.') Budapest: Mobil Kiadó. 2004, 304.

¹⁸ The Court has also addressed the issue of the temporal scope of EU law with respect to the applicability of EU law in relation to a number of references for a preliminary ruling, specifically regarding the Member States acceding later. Of these, the Ynos case, in which the Court's wording on the applicability of EU law referred back to Article 2 of the Act of Accession, which states that the provisions of the original Treaties and Community acts adopted before accession are binding on the new Member States and subject to conditions applicable in the new Member States from the date of accession. It should be noted here that, unlike in the present case, the facts of the main proceedings in the Ynos case preceded the accession of a newly acceded Member State, namely Hungary to the European Union. See Court of Justice of the European Union, C-302/04, Ynos judgment, ECLI: EU: C: 2006: 9.

economic freedoms, such as the free movement of capital. This is provided for all persons who were nationals of another Member State at the time in question. The latter, the cross-border element coming into existence by the persons having the nationality of a different Member State therefore also justifies the applicability of EU law.

Although the European Commission acknowledged in its reply¹⁹ that EU law was applicable to restitution law and that the above provisions undoubtedly infringed EU law, it nevertheless did not wish to launch an infringement procedure *ex officio* at the request of more than a thousand complainants. He based his decision, *inter alia*²⁰ on the fact that the persons concerned were able to assert their rights under EU law before the Slovak courts. However, that recognition applied only to immovable property seized during the decisive period laid down in the Restitution Act 2003, that is to say, after 1948.

In the followings, during an examination of Slovak law and the Slovak administrative practice and that of the general principles of EU law we seek to answer the question whether the remedy available under EU law applies to persons outside “the decisive period”, i.e. victims of nationalization in the application of the decrees.

3 The relevant Slovak legislation

As mentioned above, Article 2(1) of the Slovak Act NO. 503/2003 Coll. On Restitution of Agricultural Property,²¹ in addition to the provisions for Slovak citizenship and permanent residence, which clearly violate EU law, provides for an additional set of criteria for claimants. It thus

¹⁹ Answer of the European Commission: CHAP (2017) 02055. Response of the European Commission to a complaint lodged by the Institute for the Protection of Minorities (KJI).

²⁰ Answer of the European Commission: Ref.Ares (2019) 5420001-27 / 08/2019. The European Commission's response to a complaint lodged by the Institute for the Protection of Minorities (KJI), in which it complained about the Commission's failure to initiate *ex officio* proceedings which would facilitate the enforcement of the rights of several hundred of people under EU law.

²¹ See: Restitution Act S 2 (1).

allows, as a general rule, the return of land to persons whose property was nationalised between 25 February 1948 and 1 January 1990, i.e. as the legislation states, during “the decisive period”.

At the same time, Article 3(2) of the 2003 Act further extends the scope of those entitled to reclaim when it provides that „... those persons shall also be deemed entitled to the exception of confiscation of land in accordance with specific provisions ...²² who meet the criteria of nationality and domicile”. Consequently, while maintaining the nationality and domicile criteria, as set out in the explanatory provision of the legislation, those persons are also covered by the law and thus the right to recover confiscated property, from whom the land was confiscated on the basis of Decree No 104/1945 of the SNC on the “confiscation and expedited distribution of agricultural assets of Germans, Hungarians and enemies of the Slovak nation” and decree No 108/1945 of the President of the Republic on the “confiscation of the enemy’s property”. However, this entitlement exists only if the above mentioned persons had not been convicted of a “war crime” in accordance with specific requirements.

It can therefore be concluded from the foregoing that the legislation in question contains in its content seemingly contradictory provisions in respect of the same immovable property as regards the conditions which determine the scope of the rightholders to recover.

Thus, in our view, it defines, on the one hand, a general provision for the decisive period and a specific provision for properties confiscated under decrees No 104/1945 and 108/1945.

²² See *ibid.* Article 3 (2).

4 Applicable principles of the legal order of the EU

As is well known, when acting within the scope of EU law²³ Member States have to bear in mind its general principles.²⁴ What is more, László Blutman states:

“The fact that the general principles of law recognized in European Union law constitute the yardstick for the assessment of the measures taken by Member States to implement Community law also renders those principles enforceable in the courts of the Member States”²⁵

The question arises as to whether the legislation we are reviewing applies to EU law. The European Commission's point of principle is clear in this regard. In its written answer E-004016/2020, it made it clear when it stated:

„When a Member State takes measures on the restitution of property that falls within the scope of the application of EC law, it has to take into account any relevant provision, including the general principles of EC law”.

²³ Question for written answer, E-004016/2020. The European Commission, recorded the above on behalf of Executive Vice-President Vladis Dombrovskis on 4 September 2020.

²⁴ Court of Justice of the European Union, Judgment C-135/13, Szatmári Malom Kft., ECLI: EU: C: 2014: 32765.

²⁵ Blutman 2020, *ibid.* 446; See also Court of Justice of the European Union, C-2/92, Bostock, EU: C: 1994: 116, 16.

Although the above position of the European Commission²⁶ does not appear to be clearly justified in the light of current case-law,²⁷ a number of arguments can be put forward in support of it.²⁸ At the same time, a

²⁶ There is still a serious debate in legal literature as to when a Member State acting within the scope of EU law. As the relationship between EU law and national law can be diverse and it is not possible to draw sharp boundaries, the Court has set up the „sufficiently close relationship” test as an ancillary principle, which is also increasingly supported in legal literature. This is well illustrated by the position of Ludovic Pailler, who, in examining the limited material scope of the Charter, concluded that there are essentially two interpretations: the first is a grammatical interpretation under Article 51 of the Charter, which seeks to limit the Charter to cases where the Member State also strictly implements or transposes EU law. By contrast, the second, broad interpretation requires the Charter to be applied in all situations where the relationship between the legal situation to be assessed and EU law is sufficiently close. According to Pailler, the vast majority of French legal literature supports this second, broader interpretation. It also emphasizes that, in the current practice of the CJEU, there is no criterion that would provide a definite definition in this regard. See Pailler, Ludovic: *L’invocabilité de la Charte des droits fondamentaux*. In: Clément-Wilz, Laure (dir.): *Le rôle politique de la Cour de justice de l’Union européenne*. Bruxelles: Bruylant. 2019, 125–126, 142; Rondu, Julie: *L’individu, sujet du droit de l’Union européenne*. Bruxelles: Bruylant. 2020, 260; Blutman 2020 *op. cit.*, 430; László Blutman: *Az Alapjogi Charta és az uniós jog határai*. (The Boundaries of the Charter of Fundamental Rights and EU Law.) In: Mária Homoki-Nagy (chief ed.): *Ünnepi kötet Dr. Czúcz Ottó egyetemi tanár 70. születésnapjára*. (Ceremonial volume for the 70th birthday of Dr. Ottó Czúcz.) University of Szeged ÁJK. 2016, 103–109.

²⁷ Indeed, the legislation we are analysing does not, in principle, include any of the three cases „recognised” by the jurisprudence or the relevant legal literature in the implementation of EU law by the Member States: i.e. the Member State does not directly apply a source of EU law, furthermore, there is no EU provision authorizing the Member State to implement it, and lastly, the Member State does not make use of the possibility of derogations or restrictions from EU rules, i.e. we cannot talk about a derogation case (Advocate General’s Opinion, C-298/16, points 32 to 35). However, in view of the arguments that we have put forward below, the second case cannot be excluded as essentially „empowering the Member State” to enforce the requirements of the free movement of capital when applying the restoration measures it has set up under its competence, thereby controlling member states’ actions in this area.

²⁸ Thus, first of all, the findings of Advocate General Michal Bobek in Teodor Ispas (C-298/16) may serve as an argument in support of the position of the European Commission. In this case, too, the Advocate General examined when and to what extent a Member State implements EU law in relation to the fundamental rights enshrined in the Charter. In particular, it states in its proposal that, on the basis of objective criteria, the proximity between EU law and the rule of the Member States can be established even if the rule of the Member State does not reflect EU law and the Member State has a wide room for manoeuvre in the area. However, according to the Advocate General, the rule of „functional necessity” is a kind of limitation of the

detailed examination of this issue would go beyond the framework of this writing, and more importantly, it would only be the decisions of the Court of Justice of the European Union to give a point of reference; therefore in the followings we will focus solely on the enforcement of the rights of persons who have suffered an actual wrong.

Indeed, in the case of persons whose rights under the EU legal order have been infringed by the legislation we are investigating, it is already clear in the light of the relevant practice of the CJEU, whether the Member State implements EU law. The Court's judgment in *DEB* removes any doubt in this regard.²⁹ In the case on which the

general rule. According to the former, any rule of a Member State which contributes to the effective implementation of a Member State's obligation under EU law is subject to EU law, unless the adoption of a rule of a Member State is not reasonably necessary for the enforcement of relevant Union law.

As regards the restitution, we can conclude on the above stated that the Member State clearly has ample room for manoeuvre in this area and that the restitution measures of the member states do not reflect EU law.

The functional necessity is supported by the position of the Commission itself, in which it is stated that Article 17 of the Charter of Fundamental Rights of the European Union protects property by creating the right to restitution for confiscated property taken away in the public interest and under the conditions laid down by law (E-004016/2020). This interpretation cannot be ruled out as in a number of cases (see Cases No.C 66/18 and C-78/18, *Commission v. Hungary*), the provisions of the Charter seem increasingly detached from economic freedoms. Accordingly, the above criteria will be examined by the court of the Member State on a case-by-case basis and a degree of decentralisation is therefore inevitable.

Finally, it is worth noting that the cross-border element in the scope of the free movement of capital is not always necessary for the realisation of EU control. Thus, in *Hans Reisch* (C-515/99), the Court examined the legislation of the Member State in question, even though all the elements of the case were linked to a Member State. According to the Opinion of the Advocate General in the case, the examination of the legislation of Member States is justified because it may potentially obstruct the citizens of other Member States from exercising fundamental economic freedoms. These reasons also apply in the case of the restitution rules of the member states, in relation to the entitlements of citizens of other Member States and the enforceability of cross-border inheritance issues.

²⁹ It is clear from points 1 and 2 of the judgment and its normative part that the procedures for determining the liability of a State under EU law must be supervised in accordance with the criteria of European Union law, which must be determined by the national court in individual cases. This is done, *inter alia*, in the light of the articles of the Charter, which confirms that a Member State implements EU law in this type of procedures. Court of Justice of the European Union, Judgment C-279/09, *DEB*, ECLI: EU: C: 2010: 811.

decision in question was based, the provisions of the Member States in question are not specifically aimed at the implementation of EU law. However, proceedings relating to actions to establish the liability of a Member State under EU law fall within the scope of EU law.³⁰ It should be stressed that in the case of the legislation we are examining the European Commission has also recognised that persons affected by discrimination can assert their rights under the EU legal order before the Slovak courts.³¹

To sum up, the position of the European Commission as indicated above, that each restitution measure taken by a Member State falling within the scope of EU law implements EU law and thus the general principles of EU law and the provisions of the Charter have to be taken into account in its implementation, is currently not fully supported by case-law. On the other hand, where a restitution law is contrary to EU law, in this case the provisions on the free movement of capital, and the persons concerned request that the responsibility of the Member State under EU law be established or that the equal treatment required by the founding Treaties be restored,³² the procedures of the Member States for the enforcement of those claims will no doubt implement EU law. Consequently, when applying it, the Member State should take into account the general principles of EU law, including the *lex specialis* principle. In this regard, it cannot be emphasized enough, as Denys Simon did in his famous commentary on Community law, that the general principles of EU law can in a sense be regarded as “superlegality”, which the EU institutions must take into account in their work.³³

³⁰ Opinion of the Advocate General in the case C-298/16. Point 50. In his Opinion, the Advocate General stated that in such cases it is necessary for the procedural rules of the Member States, namely the determination of the conditions for legal aid to be governed by EU law, even if the legislation at issue in the main proceedings is not expressly intended to implement EU law.

³¹ See footnote 20.

³² Court of Justice of the European Union, C-628/15, points 46 and 52.

³³ Simon, Denys: *Le système juridique communautaire*. Paris: Presses Universitaires de France – P.U.F. 2003, 126.

Among the general principles of law, the *lex specialis derogat legi generali* principle deserves special attention from the point of view of our issue; a principle which is relatively rarely applied in practice and thus has not been exhaustively processed by the literature itself.³⁴ In the followings, we will attempt to analyse the relevant judgments of the CJEU³⁵ and the Opinions of its Advocates-General in the application of this principle. However, before we get to that, it is necessary to make some preliminary remarks on the nature of EU law and the place of general principles of law in the EU legal order. First of all, it is well known that according to the case-law of the CJEU EU law prevails over national law, whether it was adopted before or after the entry into force of the EU legal standard or whether we are talking about a written or unwritten legal standard.³⁶ Furthermore, as Lamprini Xenou, as many other authors point out,³⁷ compliance with the general principles is, naturally, only in cases where the legislation of a Member State falls within the scope of EU law, is considered by the CJEU strictly to be a measure of the lawfulness of the law of the Member State.³⁸ According to the above practice of the CJEU, which enforces the principle of supremacy, the obligation of a Member State also covers, accordingly, the interpretation of the laws of the Member States, at least in so far as the legislation of that Member State constitutes the implementation of

³⁴ Thus, for example, some authors distinguish general principles of a fundamental nature from other legal principles.

³⁵ The general principles of EU law play a very important role in the EU legal order, in particular in the case law of the Court of Justice of the European Union: Schwarze, Jürgen: *Droit administratif européen*. Brussels: Bruylant. 2009, 76.

³⁶ Court of Justice of the European Union, *Flaminio Costa v E.N.E.L.* C- 6/64, ECLI:EU:C:1964:34.

³⁷ Xenou, Lamprini: *Les principes généraux du droit de L'Union européenne et la jurisprudence administrative française*. Paris: sous la dir de Prof. Fabrice PICOD. 2014.

³⁸ Judgment of the Court of Justice of the European Union in Case C-5/88 Judgment of Hubert Wachauf v Bundesamt für Ernährung und Forstwirtschaft, ECLI: EU: C: 1989: 321; Case C-260/89 Judgment of Elliniki Radiophonia Tiléorassi AE and Panellinia Omospondia Syllogon Prossopikou v Dimotiki Etairia Pliroforissis and Sotirios Kouvelas and Nicolaos Avdellas and Others, ECLI: EU: C: 1991: 254; Case C-299/95 Judgment of Friedrich Kremzow v Republik Österreich, ECLI: EU: C: 1997: 254; Case C-112/00 Judgment of Eugen Schmidberger, Internationale Transporte und Planzüge v Republik Österreich, ECLI: EU: C: 2003: 333.

EU law. In other words, the individual forums of each Member State should provide an interpretation of their legislation that meets, *inter alia*, the criteria laid down by the general principles of EU law.³⁹

5 The principle of *lex specialis derogat legi generali*

As mentioned above, this principle of law is very rarely applied in practice. Consequently, the literature studying the grouping of the general principles of EU law and the legal literature dealing with the determination of the actual “weight” of each principle⁴⁰ does not in effect⁴¹ cover the principle we are examining. This certainly does not mean that the principle of law in question does not appear in the jurisprudence of the CJEU, even if dispersed, both in the judgments themselves and in the related Opinions of the Advocate General. In the following, we review the emergence of the principle of *lex specialis derogat legi generali* in case law through the examples of some legal cases, and then examine the applicability of the principle to the 2003 Slovak Restitution Act.

The reference to the principle of *lex specialis* as a general principle of law appears in the case-law of the Court in a number of cases. The first of these is the Opinion of the Advocate General in the Heinrich Stefan case.⁴² In that case, a dispute had arisen in the field of the common agricultural policy concerning the interpretation of secondary EU legislation by the Court, in particular EU regulations in the field of

³⁹ Court of Justice of the European Union, C-277/11, M.M. and Minister for Justice, ECLI: EU: C: 2012: 744, point 93.

⁴⁰ Some of the general principles of EU law have been „codified” by the Charter of Fundamental Rights of the European Union. Thus, for example, the right of judicial review developed by the CJEU in the Heylens and Johnston cases is also enshrined in Article 47 of the Charter of Fundamental Rights as the right to an effective remedy.

⁴¹ Tridimas, Takis: *The General Principles of EU Law*. Oxford: Oxford University Press. 2007.

⁴² Court of Justice of the European Union, C-285/06 Judgment of Heinrich Stefan Schneider v Land Rheinland-Pfalz, ECLI: EU: C: 2008: 164.

oenology, concerning the use of wine quality labelling. In his Opinion⁴³, Advocate General Trstenjak concludes that for the purposes of interpreting the principle of *lex specialis derogat legi generali* the specific rules of the secondary EU measure in question⁴⁴ take precedence over the secondary EU measure laying down general rules.⁴⁵ While the latter contains a general prohibition of deception in respect of all the possible data under the Regulation, the former limits it to a specific category of data. However, according to the general principle of the *lex specialis derogat legi generali*, the special rule takes precedence over the general rule. At this point, it is important to emphasize that the Advocate General expressly referred to the principle of *lex specialis derogat legi generali* as a general principle of EU law.⁴⁶

In *European Commission v Otis NV*⁴⁷, the Court of Justice delivered its preliminary ruling on the right of the European Union to represent it before national courts in proceedings for restitution for damage caused to the European Union by a prohibited cartel. The applicants argued that, in comparison with the general rule conferring on the Commission the power to represent the European Union (formerly the Community) in proceedings before a court,⁴⁸ the rule that the institution concerned has the right of representation in all cases regarding the protection of the Union's financial interests must be regarded as a *lex specialis*.⁴⁹

⁴³ Case C-285/06 Heinrich Stefan, Opinion of the Advocate General, point 72.

⁴⁴ Article 24 of Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, labelling, presentation and protection of certain wine sector products (OJ L 118, , P. 1).

⁴⁵ Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organization of the market in wine, OJ L 179, 14.7.1999, pp. 1-84. See. Article 48

⁴⁶ Case C-285/06 Heinrich Stefan, Opinion of the Advocate General, point 72.

⁴⁷ Court of Justice of the European Union, C-199/11 Judgment in *Europese Gemeenschap v Otis NV and Others*, ECLI: EU: C: 2012: 684.

⁴⁸ Under Article 282 EEAS, the Commission represents the Union exclusively before the courts of the Member States.

⁴⁹ However, according to the defendants, the provision in Article 282 is only a general rule, with the exception of the specific provisions for the protection of the Community's financial interests (Articles 274 EC and 279 EC), which are implemented by Regulation No 1605/2002 Euratom. According to the defendants, under that

If that principle were to be applied in European law, it would have been for the individual institutions themselves to bring actions or, at the very least, to confer on the Commission a power of representation before the courts.

In his Opinion in that case, Advocate General Villalón examined, *inter alia*, the applicability of the principle of *lex specialis derogat legi generali* to the given case.⁵⁰

In doing so, the Advocate General concluded that the principle of the *lex specialis derogat legi generali* has practical significance in cases where two legal provisions with the contrary contents pursue the same objective.⁵¹ Given that the provisions in question were intended for different purposes in the particular case,⁵² the principle of law cannot be applied in the present case.

In its action for annulment in the sphere of state aid for employment in the Kingdom of Belgium v Commission⁵³ case, the Court of Justice of the European Union itself refers to that principle of law in finding that contrary to the arguments of the Belgian Government, the scope of the contested regulation is not ambiguous.⁵⁴ The Court explains this reasoning in its judgment by stating that, within the scope of the principle of *lex specialis derogat legi generali*, as long as

regulation, it is for the Community institution concerned to implement the assigned budget line, which includes the possibility for each institution to recover sums paid in the event of irregularities or fraud. C-199/11, Otis NV and Others, Opinion of the Advocate General.

⁵⁰ Opinion of the Advocate General to Case C-199/11, Otis NV and others.

⁵¹ See *ibid.* Point 26.

⁵² The Advocate General observes that Articles 274 EC and 279 EC relate to the implementation of the budget, whereas Article 282 EC concerns the Community's legal capacity, which is vested in the Commission. Thus, while the former lays down the powers of each institution to determine the guarantees applicable to the financial instruments to which they are entitled, the latter defines and entrusts the Commission with the task of representing the Community.

⁵³ Judgment of the Court of Justice of the European Union, Kingdom of Belgium v Commission of the European Communities, Judgment C-110/03, ECLI: EU: C: 2005: 223.

⁵⁴ *Ibid.*, Point 39.

“Article 1 of the contested regulation defines its general scope, whereas Article 4(3) thereof concerns only schemes for employment creation in the regions and sectors eligible for aid for regional purposes.”

This case is therefore expressly concerned with two provisions of the same act which are in a special relationship with each other, such as a general provision and a special provision.

Last but not least, the Advocate General’s Opinion in *Établissements Rimbaud SA v Directeur général des impôts*⁵⁵ and the judgment of the CJEU following its substantive findings, which are of particular relevance to our subject-matter as, unlike in the above cases, it concerns fundamental economic freedoms. In his Opinion within the framework of a preliminary ruling, the Advocate General focused, *inter alia*, on the general principle of the *lex specialis* in a dispute which had arisen specifically in the field of the free movement of capital.

In the main proceedings concerning property taxes, a Member State, namely the French tax authorities, levied an annual tax of 3% on the turnover of property owned by legal persons. However, while it exempted companies established in the territory of other Member States from the payment of the disputed tax, it made it conditional on the existence of a reciprocal convention against tax evasion and avoidance between that Member State and a non-member country in the case of companies having shares in the European Economic Area (hereinafter referred to as EEA) but established in a non-member country. However, the relevant legislation, the Agreement on the European Economic Area,⁵⁶ did not contain rules similar to those of

⁵⁵ Court of Justice of the European Union, C-72/09 *Établissements Rimbaud SA v Directeur général des impôts and Directeur des services fiscaux d’Aix-en-Provence* judgment, ECLI: EU: C: 2010: 645.

⁵⁶ Agreement on the European Economic Area, OJ L 1, 3.1.1994, pp. 3-522.

Article 57 (1) of EC and Article 58 EC.^{57, 58} The former provides that the general rule on the free movement of capital is without prejudice to the application to third countries of restrictions on existing national law relating to the movement of capital to or from third countries in connection, inter alia, with investment in immovable property. Nevertheless, the Advocate General considers that the obligations of the Member States to the Member States of the EEA Agreement cannot be more severe than those arising from the EC Treaty. However, in his Opinion he stated that “the principle of *lex specialis derogat legi generali* precludes the application of Article 57 (1) EC in relation to the Member States and the Principality of Liechtenstein”. As indicated above, the Advocate General’s Opinion was considered to be governing by the Court itself, therefore reaching the same conclusion in its decision.

6 Applicability of the principle of *lex specialis derogat legi generali* to the Restitution Act 2003

As we have seen, the legal principle of the *lex specialis* has been referred to in a number of opinions and judgments of the Advocate General. Although the principle has not always been applicable to the cases in question, it is safe to say that the principle of *lex specialis* now unquestionably constitutes part of the general principles of EU law.⁵⁹ As far as particular cases are concerned, in the Heinrich Stefan case, in the sphere of common agricultural policy two secondary EU acts, namely the general and specific provisions with conflicting content of

⁵⁷ The provisions of Article 56 shall not affect the right of Member States to apply the relevant provisions of their tax law which discriminate between taxpayers on the basis of their place of residence or the place where their capital is invested.

⁵⁸ Case C-72/92 *Établissements Rimbaud SA*, Opinion of the Advocate General, point 28.

⁵⁹ Without wishing to be exhaustive, the following decisions may be included here: T-123/99, *JT’s Corporation Ltd v. European Commission*, EU: T: 2000: 230, paragraph 50; T-60/06, *RENV II - Italy v Commission*, EU: T: 2016: 233, pp. 52-58. points; C-280/13 *Barclays Bank*, EU: C: 2014: 279, paragraph 44; T 307/12 and T 408/13 *Mayaleh v Council*, EU: T: 2014: 926, paragraph 198.

two EU regulations, covered the same field. In accordance with the principle of *lex specialis derogat legi generali*, priority had to be given to the *specialis* provision. In *EUB Otis NV*, the principle of *lex specialis* could not be applied primarily because the two contractual provisions invoked did not pursue the same objective. In *Belgium v Commission*, the question of the applicability of the principle of *lex specialis* arose in relation to different provisions of the same secondary act. Although the provisions of the EU act were seemingly contradictory, the Court ultimately did not accept the Belgian Government's argument concerning the ambiguity of the regulation precisely because they were general or specific provisions of the legislation, respectively. And, in accordance with the principle of *lex specialis derogat legi generali*, the special provision takes precedence over the general provisions. Finally, in *Établissement Rimbaud*, which is of particular relevance to the subject-matter of this study, given that it arose in the context of the free movement of capital, the principle of *lex specialis* appears both in the Advocate General's opinion and indirectly in the CJEU judgment by its adopting the statements in the Opinion itself, thus playing an important role in the interpretation of the provisions in question.

As regards the applicability of the CJEU practice concerning the principle of *lex specialis* to the issue of this analysis, the Restitution Act 2003 and the related case law of the Member States, the following can be said. The law in question contains both a general and a special provision for "the decisive period", which apply to the same area with conflicting content. However, in contrast to the above judgments, in this case it is not the provisions of primary or secondary EU law but the provisions of the legislation of the Member States that are "in conflict". However, the case law of the Court of Justice of the European Union is clear: if a legislation of a Member State is deemed to be one to implement EU law,⁶⁰ the requirements of the general principles of EU law must be taken into account. The principle of *lex specialis*

⁶⁰ The legislation in question falls within the scope of EU law because the Slovak Republic was already a member of the European Union by the deadline of 1 May to 31 December 2004 for submitting claims for compensation. See footnotes 24 and 25, respectively.

derogat legi generali thus requires that the legislation of a Member State implementing EU law, in particular in the case of the Slovak Restitution Act, if two provisions with contradictory content relate to the same field, which is undoubtedly the case here, provision should take precedence over the general provisions of the law.

7 Summary

EU law does not, as a general rule, require Member States to provide restitution for immovable property confiscated before their accession to the EU. Moreover, the Member States are also free to decide on the periods during which the property was confiscated, and the persons and property to which they are granting restitution for.

With all this translated into Slovak law on restitution, the current state of development of EU law and the resolutions of the European Commission, EU law does not, as a general rule, require that legislation on restitution for agricultural property confiscated before “the decisive period” in the Slovak Republic should provide for restitution. However, where a Member State takes measures to return confiscated property within the scope of *ratione temporis* of EU law, it must do so in accordance with, inter alia, EU rules on the free movement of capital. In other words, measures taken within the scope of the fundamental economic freedoms must, in all cases, comply with the general principles of EU law, given that they constitute the implementation of EU law. The Restitution Act 2003 falls within the scope of EU law because the Slovak Republic was already a member of the European Union during the period from 1 May to 31 December 2004, which was open for claims. If the 2003 Law had set e.g. 30 April 2004 as the final date for the submission of claims for restitution as in, the EU legal order, in particular the rules on the free movement of capital, would not lay down any criteria as to the restitution of agricultural property.

As we have seen above, the settled case-law of the CJEU renders the principle of *lex specialis derogat legi generali* to be applied as a general

principle of EU law. Thus, the general provisions of the restitution legislation under scrutiny, which are set out in the preamble and in the legislation itself and which only allow for the recovery of immovable property confiscated during “the decisive period”, are deemed to be general rules. By contrast, the provision(s) which allow for the recovery of confiscated property subject to certain criteria, even if they had been confiscated before “the decisive period”, can be categorized as *lex specialis*. In a possible dispute it is for the courts of the Member States to give an interpretation of the legislation of the Member States which complies with the general principles of EU law, including the principle of *lex specialis*, thus ensuring that the legislation is applied in accordance with EU law. That obligation appears to be fully justified in the case of persons who bring an action for damages against the Member State concerned under the EU legal order. In the present case this means that the Slovak courts must give priority to the special provision of the 2003 Restitution Act, which also allows for the recovery of confiscated property in respect of the period prior to “the decisive period”.⁶¹ Otherwise, the application of the law does not meet the criteria set by the general principles of EU law, i.e. it is considered incompatible with EU law.

⁶¹ In this article we have not addressed the question of which, according to the European Commission’s position, what procedural EU and Slovak frameworks can persons who have been unable to bring claims for damages as a result of discriminatory provisions in breach of EU law bring their claims before Slovak courts.

Bibliography

- Blutman László: *Az Európai Unió joga a gyakorlatban – a Brexit után*. Budapest: HVG-ORAC Kiadó. 2020.
- Blutman László: Az Alapjogi Charta és az uniós jog határai. In: Homoki-Nagy Mária (főszerk.): *Ünnepi kötet Dr. Czúcz Ottó egyetemi tanár 70. születésnapjára*. Szeged: Szegei Tudományegyetem ÁJK. 2016, 103–109.
- Horváth Attila: A Benes-dekrétumok és a hozzá kapcsolódó diszkriminatív intézkedések Csehszlovákiában 1945 és 1948 között. In: Horváth Attila – Korom Ágoston (szerk.): *A Benes-dekrétumok az Európai Parlamentben*. Budapest: NKE. 2014.
- Rondu, Julie: *L'individu, sujet du droit de l'Union européenne*. Bruxelles: Bruylant. 2020.
- Pailler, Ludovic: L'invocabilité de la Charte des droits fondamentaux. In: Clément-Wilz, Laure (dir.): *Le rôle politique de la Cour de justice de l'Union européenne*. Bruxelles: Bruylant. 2018.
- Kurucz Mihály: Gondolatok a magyar földforgalmi törvény uniós feszültségpontjainak kérdéseiről. In: Szalma József (szerk.): *A Magyar Tudomány Napja a Délvidéken 2014*. Újvidék: Vajdasági Magyar Tudományos Társaság. 2015.
- Kurucz Mihály: *A mezőgazdasági ingatlanok agrárjogi szabályozása*. Budapest: Mobil Kiadó. 2001.
- Kurucz Mihály: *Az európai agrárjog alapjai*. Budapest: Mobil Kiadó. 2003.
- Mészáros Anikó – Korom Ágoston: A Benes-dekrétumok tegnap és ma az Európai Parlamentben. In: Horváth Attila – Korom Ágoston (szerk.): *A Benes-dekrétumok az Európai Parlamentben*. Budapest: NKE. 2014.
- Schwarze, Jürgen: *Droit administratif européen*. Bruxelles: Bruylant. 2009.
- Simon, Denys: *Le système juridique communautaire*. Paris: Presses Universitaires de France –P.U.F. 2003.
- Szilágyi János Ede: Az Egyesült Államok és szövetségi államainak mezőgazdasági földtulajdon szabályozása a határon átnyúló földszerzések viszonylatában. In: *Miskolci Jogi Szemle 2017/2. különszám*.
- Szilágyi János Ede: Agricultural Land Law– Soft law in soft law. In: *Hungarian Yearbook of International Law and European Law 2018*.
- Szilágyi János Ede – Raisz Anikó – Kocsis Enikő Bianka: New dimensions of the Hungarian agricultural law in respect of food sovereignty. In: *Journal of Agricultural and Environmental Law 22/2017*.

Tridimas, Takis: *The General Principles of EU Law*. Oxford: Oxford University Press. 200.

Xenou, Lamprini: *Les principes généraux du droit de L'Union européenne et la jurisprudence administrative française*. Paris: sous la dir de Prof. Fabrice PICOD. 2014.

ABSTRACTS

Daniel TURP

Önrendelkezés, a népek döntési joga és az államok tárgyalási kötelezettsége

Számos függetlenségi és autonomista mozgalom követelte és követeli a mai napig is a népek alapvető és kollektív jogát az önrendelkezéshez. Ez a tanulmány amellettt érvel, hogy a nemzetközi gyakorlat azt mutatja, hogy a XX. század végén és a XXI. század elején sikertelennek bizonyultak azon erőfeszítések, hogy az önrendelkezési jogot a koloniális részekre korlátozzák és megtagadják a nem-koloniális népektől az autonómiát vagy a függetlenséget. Az önrendelkezési jog fő jellemzője a „népek döntési joga”, de ez óhatatlanul együtt jár „az államok tárgyalási kötelezettségével”, ahogyan azt megerősítette a kanadai Legfelsőbb Bíróság *Reference re Secession of Québec* döntésében, és amely megtalálható az *Emberi jogok nemzetközi törvényének* első szakaszában. A szerző azt a véleményt képviseli, hogy a népek megerősítik önrendelkezési jogukat, ideértve azon jogukat is, hogy szabadon meghatározzák politikai státuszukat, és felszólítják az államokat, hogy tegyenek eleget tárgyalási kötelezettségüknek és azon elkötelezettségüknek, hogy előmozdítsák az önrendelkezési joguk megvalósítását.

Xabier EZEIZABARRENA

**A kisebbségi autonómia és az önrendelkezés belső
vetületei az Európai Unióban: rövid összehasonlító
elemzés Baszkföldről**

Ez a tanulmány az önrendelkezéshez való jog jelenkori felfogását kívánja elemezni az Európai Unió bonyolult keretrendszerén belül. Ebben az összefüggésben – miközben az autonómia fogalma decentralizált országokban általánosan vélelmezett – létezik egy átalakuló félben lévő „társ-szuverenitás” fogalom is az EU keretei között, amely kapcsán hasznos lenne az önrendelkezés új vonulatait előmozdítani politikai egyeztetések és megállapodásokon keresztül. A tanulmány rövid összehasonlító elemzést nyújt Baszkföld alkotmányos helyzetére, valamint történelmi jogaira és címeire fókuszálva.

Lothar HÖBELT

**Nem „Canossa-járás” és nem „halálos ítélet”:
az Osztrák-Magyar Monarchia végének újragondolása**

Gyakran állítják, hogy 1918 áprilisában a Sixtus-affér következtében a Habsburg Monarchia Németország „vazallus államává” vált, amely arra készítette ezzel az antant hatalmakat, hogy aláírják az Osztrák-Magyar Monarchia „halálos ítéletét”. A tények azonban nemigen támasztják alá ezt az elméletet. Oroszország bukását követően a háború korábbi éveéhez képest jelentősen csökkent az osztrákok Németországtól való függősége. Másrészt egy esetleges orosz uralom adta lehetőségek fényében a németeknek már kevésbé állt érdekükben, hogy a Habsburg Monarchiával egyre szorosabb egységet alakítsanak ki.

Az antant hatalmaknak még egyáltalán nem sikerült döntést hozniuk az Osztrák-Magyar Monarchia sorsát illetően. 1918 nyarán a nyugati hatalmak mindösszesen annyit tettek, hogy rávették Masarykot és Benest, hogy a szibériai központú Csehszlovák Légiót rendelkezésükre bocsássák a Lenin elleni harcban. Ami a belpolitikát illeti, a szláv „nemzetiségek” politikai elitjei nem a damaszkuszi út féle páfördüláshoz hasonló hirtelenséggel fordultak el a Monarchiától, hanem a „több vasat tartani a tűzben” elvet követve megpróbálták a legtöbbet kihozni a rendelkezésre álló lehetőségekből és megkötésekből. Mindössze akkor nyílt lehetőségük a függetlenedésre, mikor bizonyossá vált, hogy a központi hatalmak elveszítették a háborút.

GLANT Tibor

Az Inquiry és a párizsi békekonferencia: az amerikai béke-előkészületek és Magyarország sorsa, 1917–1920

Az első világháború idején az amerikai béke-előkészítő munka a House ezredes vezetésével létrehozott, elsősorban keleti parti tudósokból verbuvált *Inquiry* feladata volt. A háborúzásnak egyszer s mindenkorra véget vető, a békés nemzetközi együttműködést garantáló „tudományos béke” a wilsoni új világrend kulcsa lehetett volna, ám a tanulmányunkban részletesen bemutatott osztrák-magyar kutatócsoport végső jelentésében azt írta, hogy nem tud igazságos és a gyakorlatban is megvalósítható nemzetközi határokat javasolni a volt Habsburg birodalom helyén, a németek és oroszok közti kulcsfontosságú térségben. Ez egyben azt is jelentette, hogy a „tudományos békére” alapozó „*Pax Americana*” terve már a békekonferencia megnyitása előtt megbukott. 1919-ben azután az Inquiry szakértői a békekonferencia idején diplomáciai, politikai és hírszerzési feladatokat kaptak: erre viszont nyilvánvalóan nem voltak felkészítve. Ebben az írásban az

Inquiry osztrák-magyar kutatócsoportjának működését, valamint az amerikai békedelegáció magyar vonatkozású döntéseit vizsgáljuk és értékeljük korábban még fel nem dolgozott források alapján. Bemutatjuk a bizottság létrehozásának körülményeit, működési környezetét, kapcsolati hálóját és legfontosabb munkatársait, továbbá elemezzük a Monarchia és Magyarország jövőjével kapcsolatos amerikai terveket, majd azok részleges megvalósulását Párizsban. Zárásként megvonjuk az Inquiry – elsősorban természetesen az osztrák-magyar kutatócsoport – munkájának mérlegét.

SZEGHŐ Patrik

A délszláv egység és Ausztria-Magyarország felbomlása

A délszláv eszme 20. század eleji újjáéledésével a horvát *novi kurs* (új irány) politikai mozgalom sikeresen mozgósította a délszláv vállalkozó és értelmiségi réteget a magyarországi kormányzati válság (1905–1906) idején. A horvát és a szerb pártok szövetségéből létrejövő Horvát-Szerb Koalíció a délszlávok közötti polgári egyenlőség eszméjét hirdette, és a horvát-magyar kiegyezés (*Nagodba*) felülvizsgálatát helyezte kilátásba, miközben nyíltan kiállt a dualizmus magyarországi ellenfelei mellett.

A Szabadelvű Párt harmincéves uralmát követő magyarországi kormányváltás nem váltotta be a délszlávok reményeit. A Függetlenségi Párt és nagy választási koalíciója – a Szabadelvű Párt utódai a hatalomban – ahelyett, hogy megoldották volna a társadalmi és nemzeti elégedetlenségre okot adó problémákat, a nacionalista retorikához fordultak. Ezzel próbálták elterelni a figyelmet a teljesítetlen, de nagy ívű választási ígéretektől, miközben alaposan felnagyították a nemzetiségiak részéről a Magyar Királyságot érő veszélyeket. Az Ausztria-Magyarországból kiábrándultak a *novi kurs* szellemi alapítói a Szerb Királyságban keresték a jugoszlávok lehetséges Piedmontját, ami felszabadíthatta és egységesíthette volna az összes délszláv területet.

Az első világháború kitörésekor néhány délszláv politikai vezető elhagyta a Habsburg Birodalmat és igyekezett az antanthatalmak vezetőit meggyőzni egy egységes jugoszláv állam létrehozásáról. A Szerb Királyság látszólag teljes szívvel kiállt a politikai küldetésük mellett, s pénzügyileg is támogatta a Jugoszláv Bizottság – egy londoni székhelyű jugoszláv emigráns szervezet – létrehozását.

A Habsburg Birodalom valamennyi nemzetiségei közül az első világháború alatt a délszlávok ügye és törekvései tűntek a leginkább ingatagnak és látszólag a legreménytelenebbnek. Abban a korban, amikor a nemzeti önrendelkezést nem fogadták el egyetemesen az államhatárok és a békerendezés elveként, a független és egységes jugoszláv állam létrehozásáért folytatott keresztes háború a Habsburg Birodalom megcsonkításával vészett ügynek tűnt. Amellett, hogy az Antant vezetői a háború utáni időszakban Németország ellenpontjaként kívánták megőrizni az átalakított Habsburg Birodalmat, a délszlávok által lakott területek a Bulgária, Olaszország és Románia háborúba való belépéséért folytatott alkudozás tárgyává váltak. Mindeközben a Jugoszláv Bizottság és a szerb kormány közötti, az egyesülés módjára és a kormányzás jövőbeni formájára vonatkozó ellentétek akadályozták a nemzetközi kampányt, ami a jugoszláv eszmét a délszláv nemzeti önrendelkezés megtestesüléseként hirdette, megnehezítve ezzel a jövőbeni délszláv állam elismerésének folyamatát az első világháború végén.

A tanulmány a délszláv kérdését és a délszláv egységhez vezető utat mutatja be a dualizmus korának utolsó évtizedeiben.

KOMÁROMI László

A területi népszavazások kérdése az első világháború után, különös tekintettel Magyarországra

Az elképzelés, hogy területi kérdéseket népszavazás segítségével döntsenek el, először az 1789-es francia forradalom idején játszott fon-

tos szerepet. Gyakorlati jelentőségre az olasz egyesítési folyamat során tett szert, és a XIX. század utolsó évtizedeiben úgy tűnt, veszít jelentőségéből. Az első világháború idején azonban – részben Wilson elnök nemzeti önrendelkezési elvet támogató magatartásának köszönhetően – újra rendszeresen szóba került, mint a háború utáni helyzet elrendezésére szolgáló kívánatos eszköz. Széles körben elterjedt az elképzelés, s a tervek szerint általános megoldásként kívánták használni a jövőben, mint eszközt a területi viták eldöntésének megoldására.

Ennek köszönhetően Németország és szomszédos országainak – mint Dánia, Lengyelország, Franciaország és Belgium – határvitája kapcsán a Párizsi Békekonferencia lehetővé tette a népszavazást Schleswigben, Allensteinben, Marienwerderben (1921), Felső Sziléziában (1921), a Saar-vidéken (1935) és egyoldalú népi konzultációt írt elő Eupenben és Malmedyben (1920). Az osztrák-jugoszláv határ kérdésében a Klagenfurti-medencében tartottak népszavazást (1920). A győztes nagyhatalmak és más érintett felek is közvetlen népszavazást javasoltak egyéb területi viták eldöntésére, azonban ezek sosem valósultak meg, vagy azért, mert a legtöbb esetben a győztes felek érdekeivel ellentétesek voltak, vagy a kérdés győztesek közötti határvitával volt kapcsolatos, és a felek nem tudtak egyezsége jutni a népszavazás megtartásának ügyében.

A vereség következményeként nemcsak az Osztrák-Magyar Monarchiát semmisítették meg, hanem Magyarországnak le kellett mondania történelmi területének mintegy kétharmadáról is. Ezek után nem meglepő, hogy a magyar kormányok időről időre felvetették a nemzeti önrendelkezési jog témáját, és a magyar békedelegáció is népszavazást kért minden olyan területen, amely Trianont követően elcsatolásra került. A nemzeti szuverenitás témáját azonban elhomályosították más érvelések, mint Magyarország történelmi joga a területeire és a Kárpát-medence gazdasági és földrajzi egysége, amely aláásta az ország területi integritásához való ragaszkodását. Végül sem a történelmi, gazdasági vagy földrajzi érvelés nem számított, sem a népszavazási kérelmet nem teljesítették. Az egyetlen területi népszavazást egy különálló, az osztrák és a magyar kormány között megkötött egyez-

mény kapcsán tartották Sopron és annak környékének jövőjét illetően (1921). Ez a terület végül Magyarország része maradt, Burgenland többi területe pedig Ausztriához lett csatolva.

SZABÓ István

Trianon hatása a közjogi tradíciókra

A tanulmány Magyarország első világháború utáni területvesztéseinek a közjogi tradíciókra gyakorolt hatásait vizsgálja. A háborús vereséget forradalom követte, amely a múlttal történő szakítást tűzte céljául. Ezt a szakítást elsősorban a kedvezőbb békefeltételekbe vetett remény motiválta. Ez a remény azonban hamar szertefoszlott, s az ország területi szétesése, amelyet a trianoni béke pecsételt meg, a tradíciók erősödéséhez vezetett. Ennek legmarkánsabb példája az államforma meghatározása volt, ahol a *de facto* és a *de jure* helyzet tartósan szétvált. A királyi trón betöltésének hiánya miatt ugyanis az államműködésben a republikánus elemek domináltak, vagyis az ország, *de facto* köztársaság volt, a nemzetgyűlés az államformát azonban – a tradíciókhoz történő ragaszkodás okán – mégis királlyságként határozta meg.

BODÓ Barna

Tegnap és holnap között – emlékjelek sorsa a Bánságban 1918 után

Rendszer-, illetve hatalomváltáskor visszatérő kérdés, mi legyen azokkal az emlékjelekkel (szobrokkal, emléktáblákkal, emlékművekkel), amelyek egy korábbi korban születtek, annak értékeit és politikai szándékait képviselik. Esetünkben: mi legyen a magyar történelmet és kultúrát idéző emlékjelekkel Erdélyben, Romániában. Mivel nincs ebben a vonatkozásban semmilyen kétoldalú vagy nemzetközi egyezmény, illetve fórum, erre a kérdésre Románia a maga módján adta meg a választ.

Az erdélyi magyarság számára életbe vágó kérdés, hogy az impériumváltással, Trianon után miként viszonyult az új hatalom a korábbi, országos vagy helyi értékeket megjelenítő emlékjelekhez. Bár folytak kutatások, a romániai Bánságot illetően eddig nem készült a teljesség igényével, a történelem alakulásának áldozatul esett valamennyi emlékjelre kiterjedő elemzés, több helyi etnikum emlékjeleire kiterjesztett összehasonlító kutatás pedig egyáltalán nem történt. Mivel a közigazgatásilag nem létező Bánság történelmi régióként máig él a helyi lakosok helyzetértelmezéseiben, ugyanakkor a történelmi Bánságra vetítve a jelenlegi közigazgatási beosztás nem fedi a történelmi területet, a kerethez való ragaszkodás jegyében három megyében vizsgáltam az emlékjelek sorsának alakulását: Arad, Temes és Krassó-Szörény megyékben. Pontos számot nem ismerhetünk, hiszen minden elveszett/eltüntetett emlékjelről nincs tudomásunk, feltehetőleg közel száz szobor, tábla és más emlékjel esett a történelmi viharok áldozatául, többségében magyar vonatkozásúak, de van német/sváb és néhány román is. Szerb emlékjel eltűnéséről nincs tudomásunk. Ezek közül 85 szerepel összeállításomban. A lerombolt magyar emlékjelek közül néhányat az utóbbi három évtizedben sikerült visszaállítani.

KARDOS Gábor

Trianon és a nemzetközi jog: érvek a magyar nemzetközi jogtudományban a trianoni békeszerződéssel szemben

A békeszerződések szigorodásának tendenciája és a győztesek biztonság érzett morális fölénye vezetett az 1920-ban, a Párizs környéki palotákban aláírt békeszerződések erőteljes diktátum jellegéhez: a korábbi háború utáni rendezésekhez képest sokkal nagyobb mérvű volt a területszerzési, a gazdasági és a biztonsági igények kielégítése. A két világháború közötti magyar nemzetközi jogi szakirodalom nagy figyelmet szentelt a trianoni szerződéssel szemben felhozható érveknek. Az évforduló kapcsán ez a rövid írás néhány kiemelkedő hazai nemzetközi jogász érveire hívja fel a figyelmet, anélkül, hogy teljes képre törekedne a magyar szakirodalom bemutatásában. A legfontosabb érvek a következők voltak: Az első világháború befejeződését követően az antant erők jogellenes kényszert alkalmaztak Magyarossággal szemben, átlépve a fegyverszüneti egyezmény által kijelölt demarkációs vonalakon. Alexandre Millerand francia miniszterelnök 1920. május 6-ai levelére hivatkozott, amely megtévesztette a magyar kormányt, és aminek a hatására aláírta a trianoni békeszerződést

GYENEY Laura – KOROM Ágoston

Ingatlanok kárpótlása: Benes-dekrétumok az uniós jog szemszögéből – az 1948 előtti kisajátítás érintettjeinek jogi helyzete a *lex specialis* elve alapján

Jelen írás a – Benes-dekrétumok egyes rendelkezéseit is érintő – 2003. évi szlovák kárpótlási törvényt és az azt értelmező közigazgatási, il-

letve bírói gyakorlatot veszi górcső alá. Mint ismeretes, a tagállamok nem kötelesek kárpótlást nyújtani az uniós csatlakozásukat megelőzően kártalanítás nélkül elvett ingatlanokért. Mégis, amennyiben a csatlakozásukat követően kárpótlási intézkedéseket vezetnek be, figyelemmel kell lenniük a tőke szabad mozgásának kritériumaira, így az annak középpontjában álló, állampolgárság szerinti hátrányos megkülönböztetés tilalmának jogelvére.

Az Európai Bizottság – épp a szlovák kárpótlási törvénynek a kárpótlást szlovák állampolgársághoz és állandó szlovákiai lakóhelyhez kötő, diszkriminatív kikötéseire tekintettel – elismerte, hogy a szóban forgó törvény – a kérdéses tagállam uniós csatlakozását követő időszakra vonatkozóan – uniós jogot sért. Ennek ellenére, több mint ezer panaszos kérelmére sem kívánt hivatalból kötelezettségszegési eljárást indítani. Döntését többek között azzal indokolta, hogy az érintettek a szlovák bíróságok előtt érvényesíthetik az uniós jogrendből eredő igényeiket.

Tanulmányunkban arra a kérdésre igyekszünk választ kapni, vajon egy a fentiekre irányuló esetleges jogérvényesítés érintheti-e a Benes-dekrétumok következményeként elvett ingatlanokat, avagy az kizárólag a jogszabály által az ún. döntő időszakban elkobzott ingatlanokra, így az 1948 februárját követő államosításokra terjedhet ki. Elemzésünk során az uniós jog egy kevésbé ismert és ritkán alkalmazott általános elvét, nevezetesen a *lex specialis derogat legi generali* jogelvet hívjuk segítségül.



KÉSZÜLT A MAGYAR KORMÁNY
TÁMOGATÁSÁVAL



MINISZTERELNÖKSÉG
NEMZETPOLITIKAI ÁLLAMTITKÁRSÁG



BETHLEN GÁBOR
Alap

