

# ACCENT

Community Colleges for Europe!



Youth Proposal for a  
Common European Constitution

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## Editorial

The denomination Transylvanian Community College (TCC) stands for a two-week event organized in Transylvania, Romania.

The project was planned and implemented by the Association for Community Colleges (ACC), a European organization based in Denmark. The ACC, member of the Association for World Education, shares the conviction that the concepts of lifelong learning and non-formal education offer an up-to-date context in which answers to present dilemmas can be found. The TCC has been a showcase of the organization's general strategy, according to which there is an urgent need of establishing a permanent common European dialogue and community colleges offer a traditionally effective framework for achieving this aim.

Fifty young Europeans, leading members of non-governmental organizations working in the sensitive topic of minority issues, were selected by way of application to participate in the event. As a special subject, the TCC dealt with the situation of Central and Eastern European minorities in the future context of the EU enlargement.

The particular method adopted by the organizers was the community college / boarding school format, which practically embraced the aim of forming a special community out of the participants by offering them a framework, in which they live together and discuss issues of common concern twenty-four hours a day.

This year the TCC was organized for the second time. Correspondingly, the coordinators decided to alter the complete methodological framework of the project, thus the main priority became to actively involve the participants and facilitate their drafting a Modification Proposal for the Common European Constitution.

This journal stands for a documentary of what happened during this special event. In its first part the written texts of the performed lectures are presented, in the second one participants share their impressions in public. Photos are also included, as they represent the most "talkative" form of our commonly kept memories.

These articles and personal views will hopefully construe a complex picture of what we achieved by organizing this course. ■■

*Ágota Ilyés and Barna Kovács*  
Project coordinators

## Publishers' Perspective

The EU-Commission White-paper on European governance as well as the one on youth policy, the Nice protocols, reports and memoranda en masse all describe a crucial and basic issue within the European integration process, namely that of a gap between the political institutions promoting the European integration on the one side and the citizens of Europe on the other.

Dear reader, with this issue of the ACCENT, it is once again described how the ACC Transylvania Committee has proved -in real life- the validity of our ideas on how to fill in the gap. We need forums for establishing a European public sphere. The Transylvania Community College is one important beginning.

Within this second issue of the ACCENT, you will also find expressions like "European-level public debate" and "ongoing, common European dialogue". During the planning sessions we read that Javier Solana spoke about a "European public opinion", in our statutes it says "enlightened European debate" and we regularly refer to the "European public sphere" or "-realm" and a "European Demos".

Don't get it wrong; it all stands for the same notion! The fact that the vision is expressed in many ways and that none of the above expressions has proven to be dominating speaks for itself. It is all about stimulating common debates in trans-national forums.

On the other hand, with the support of Community Colleges arranged by the ACC Transylvania and other - Committees, the European Community College format has become a more fixed concept.

This is probably also the reason why Community Colleges and their possible development on a European scale is mentioned in even more political contexts. ■■

*ACC Board*



# Transylvania Community College (TCC) 2003

*by Ágota Ilyés, and Barna Kovács, Project coordinators, Hungary*

The Transylvania Community College 2003 project was implemented in the period of August 3-16 in Targu Mures/Marosvásárhely/ Neumarkt, in compliance with the common European agenda. Fifty young Europeans participated in the event, the majority of which were students in political science and law, arriving from twelve different countries, representing various ethnic-cultural backgrounds and civil organizations. The major challenge facing the initiative was that the participants reach an agreement within the two weeks time frame at their disposal and thereby formulate a common proposal concerning the protection of the national and ethnic minorities to the constitution of the European Union.

Romania, or in a narrower sense Transylvania and Targu Mures/Marosvásárhely/Neumarkt, is an illustrative example of the issue's problematic character. The choice of the venue aimed at introducing the participants to the Transylvanian "case-study", the majority of whom interacted for the very first time with the Romanian reality.

The idea of the Transylvania Community College 2003 was developed and implemented by Ágota Ilyés and Barna Kovács; they coordinated the event with the financial support of the European Commission and the Soros Foundation. The Denmark-based Association for Community Colleges (ACC) provided the organizational framework, while the Studium Foundation was the local host of the event. The TCC is a showcase of the ACC's general strategy of creating community colleges in the different countries that would debate subjects of a common interest with European-level participation.

The ACC is an organization established by young people several years ago. The Minority Course in Aabenraa, Denmark was the common experience of the founders, which has been ever since regularly organized, presently under the name of East-West Dialogue ([www.peoplesite.hojoster.dk](http://www.peoplesite.hojoster.dk)). The mission of the organization is to raise awareness of the necessity for a permanent European-level public debate, through which in fact it draws attention to the importance of civic participation in decision-making. The projects of the ACC are implemented in accordance with this principle in various European countries (for details confer the [www.acc.eu.org](http://www.acc.eu.org) website).

The founders of the Transylvania Community College aim at establishing similar values in the central-eastern European region, and their idea received organizational support from the ACC. The initiative soon began to live its own life: already in 2001 the applications to the Council of Europe and European Commission were successful and therefore made possible the implementation of a two-week project in Székelyudvarhely/Odorheiu Secuiesc/Oderhellen. The subject of the project was debating questions of minority protection brought into the forefront by accession to the European Union. Emphasis was put on the methodology: the community college format implies that the participants of various backgrounds learn, debate and have fun together twenty-four hours a day - that is how they can obtain valuable experience about each others' peculiar situations. Two years ago the project had a remarkable success, equally witnessed by feedback from the invited lecturers, the participants from abroad and financial supporters.

In the following year (2002) the ACC assumed partnership in a mega-project called Youth 2002. The main goal of this endeavor was that 1000 young European participants debate and draft a constitution for the European Union. Anders Fogh Rasmussen Danish prime minister officially opened the event in Copenhagen, with the occasion of Denmark's taking over the EU presidency. Beyond the festive moments however, hard work of many has laid in the background. The project was simultaneously implemented in 13 Danish folk high schools. The task was synchronized by a coordinating office, where the TCC organizers worked together with John Petersen, the chairman of the ACC.

This symbolic project -the active participation of young people in the common European constitutional process- was simultaneously run with an institutional initiative: the European Convention was elaborating a constitutional draft as well. The end product of the youth initiative received a positive feedback in the Convention's work.

Already one and a half year ago the Transylvanian organizers realized that a subject of such an importance as protecting national and ethnic minorities may create heavy debates in the process of drafting a common European constitution. This assumption

proved to be right: the constitutional draft handed over on the 18th of July by Valérie Giscard d'Estaing accorded minimal attention to the issue.

The preparatory work of the TCC 2003 lasted for one year and it proved to be efficient complemented by the active participation of young Europeans. This year the organizers assumed an even more difficult task: besides active participation in the lectures the fifty participants formulated their ideas concerning the present constitutional draft in writing as well, especially relating to its aspects dealing with minority protection.

In the end of a fruitful professional debate the participants decided to compose a modification proposal to the present constitutional draft, in which they equally reflect on the already existing relevant regulations, and the problems left unsolved, as well as the gaps remained unfilled by the European Convention' draft.

The essential elements of this proposal can be captured as it follows:

- This document of a symbolic value can represent the „voice”<sup>1</sup> of the European Youth on the intergovernmental conference in October, in the context of the national-level politics supporting the issue
- Such basic concepts were debated, as citizenship, language usage, education in mother tongue, self-determination, political participation, media and the duties deriving from these rights. Moreover, the modification proposal recommends the consideration of the most important relevant legal documents: the Framework Convention for the Protection of National Minorities<sup>2</sup> and the Recommendation 1201<sup>3</sup> of the Council of Europe
- The participants also recommend the establishment of an institutional network, that is considered filling a gap as far as the present constitutional draft is concerned
- Furthermore they consider important the creation of those tools that would enable more transparent and more effective, case-tailored problem solving within the EU institutional system in relation to the protection of national and ethnic minorities<sup>4</sup>.

As organizers, we are convinced that the proposal elaborated by the young participants is a valuable initiative and it is worth to receive special attention during the intergovernmental negotiations when the draft submitted by the European Convention is

debated.

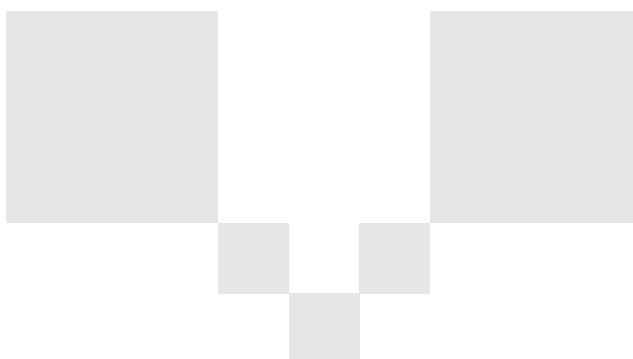
Instead of conclusion let us share an idea that might as well be interpreted as the core lesson of this experience: the special Transylvanian context, as an organic part of the Romanian reality, is not yet ready for the „digestion” of the actual European agenda. There is still a lot to do in these terms -let that be the development of the infrastructure, the dinamization of societal receptivity, the enhancement of civic initiatives, or simply the art of facing everyday problems in a constructive and not in an escape-like manner. However, dissatisfaction with the present situation is at the same time the key to progress: the local and European public spheres are by far not mutually exclusive dimensions; it is worth to actively participate in either of them -and not exclusively in the area of minority protection. ■■

<sup>1</sup> „The European Union aims at achieving equal rights between all residents, this including national minorities. The Transylvania Community College 2003 participants, representing a view of the European youth, believe that issues concerning national minorities have not been properly dealt with and we therefore propose several changes in current European Union documents with the goal of seeing these provisions included in the future European Constitution”

<sup>2</sup> Framework Convention for the Protection of National Minorities, Strasbourg, 1. II. 1995

<sup>3</sup> Council of Europe Parliamentary Recommendation 1201 (1993) on an additional protocol to be adopted by the Assembly on February 1 1993

<sup>4</sup> „Awareness should be raised about problems concerning national and/or minorities especially by providing a permanent dialogue between national and/or ethnic minorities and majorities and working in close cooperation with these groups.”



# Modification Proposal for a Common European Constitution

## Transylvania Community College - TCC

3<sup>rd</sup> August - 16<sup>th</sup> August, 2003

Târgu-Mureş / Marosvásárhely / Neumarkt / Romania

*The European Union aims at achieving equal rights between all residents, this including national minorities. The Transylvania Community College 2003 participants, representing a view of the European youth, believe that issues concerning national minorities have not been properly dealt with and we therefore propose several changes in current European Union documents with the goal of seeing these provisions included in the future European Constitution:*

We place utmost importance on the fact that “the Union is founded on the values of [mutual] respect of human dignity, liberty, democracy, equality, the rule of law and respect for human rights. These values are common to the Member States in a society of pluralism, tolerance, justice, solidarity and non-discrimination”<sup>i</sup>,

additionally, we would like to express our strong support for cross-border cooperation at both internal and external borders of the European Union, as well as support for youth programs in order to raise awareness,

considering the forthcoming enlargement of the European Union, we believe that the rights of minorities should not go beyond the rights of the majority but they should be provided with any rights necessary to preserve their existing unique characteristics and therefore see the need for the European Council to adopt affirmative measures to ensure equal exercising of rights for national minorities (in order to secure peace, stability, justice and democracy of our common future),

stressing that discrimination based on belonging to a national minority shall be prohibited, the Union should strive to get an equal level of minority protection throughout all its territory through trans-frontier cooperation and all other measures needed,

furthermore, we strongly recommend that a section of the ombudsman office should be dedicated to deal with issues of national minorities, as well as placing emphasis on the importance of creating an informational campaign on the new competences given to the ombudsman.

### ***I. Definition***

A national minority in the European Union is a group of persons who reside on the territory of the Union, are present in a significant number and are in a non-

dominant position in member states or in an administrative, historical, or geographical region in which they reside, “...maintain longstanding, firm and lasting ties with that State... display distinctive ethnic, cultural, religious or linguistic characteristics”<sup>ii</sup> and preserve and develop together that which constitutes their common identity.

### ***II. Rights***

#### **Identity**

“Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights that are connected to that choice.”<sup>iii</sup>

#### **Citizenship**

Access to citizenship should be guaranteed to national minorities. All rights related to citizenship and stipulated in the European Constitution should be guaranteed for all persons belonging to national minorities and citizens of any EU member state.

#### **Language**

“Every person belonging to a national minority shall have the right freely to use his/her mother tongue in private and in public, both orally and in writing. This right shall also apply to the use of his/her language in publications and in the audiovisual sector.”<sup>iv</sup>

#### **Education**

“Every person belonging to a national minority shall have the right to learn his/her mother tongue and to receive an education in his/her mother tongue at an appropriate number of schools and of state educational and training establishment, located in accordance with the geographical distribution of the minority.

The persons belonging to a national minority shall have the right to set up and manage their own schools and educational and training establishments within the framework of the legal system of the state.”<sup>v</sup>

Every person belonging to a national minority has the right to choose whether to receive compulsory education in his/her mother tongue or in the majority language.

## Politics

“All persons belonging to a national minority shall have the right to set up their own organizations, including political parties.”<sup>vi</sup>

## Self-governance

“[In the regions where they are in a majority the persons belonging to a national minority shall] have the right to be appropriately represented at all levels of local and regional government, or have a specific status, which should allow them to exercise the competences [matching the specific historical and territorial situation and in accordance with the domestic legislation of the state.]”<sup>vii</sup>

## Non-manipulation of demographics

“Deliberate changes to the demographic composition of the region in which a national [and/or ethnic] minority is settled, to the detriment of that minority, shall be prohibited.”<sup>viii</sup>

## Media

In order to promote tolerance and permit cultural pluralism:

Persons belonging to a national minority have the right to access to the media: sound of radio, television broadcasting, cinema enterprises, Internet, printed or any other media and are not discriminated against in their access.

Persons belonging to a national minority have the possibility of creating and using their own media.

## III. Duties

National minorities have the duty to learn the official language (or at least one of the official languages) of the state.

Any person belonging to a national minority shall respect the national legislation and the rights of others (including culture and religion), in particular those of persons belonging to the majority or to other national minorities.

## IV. Institutions

### Ombudsman

To be added to the **Role of the Ombudsman**:

“The ombudsman deals with cases of mal-administration [and infringement of human and minority rights, as defined by the European Constitution,] by community institutions and bodies, [but also by national administration in cases where no sufficient protection of these rights is provided at a national level.”] Committee of Regions

To be added to the **Powers** of the Committee of Regions:

## 1. Opinions issued on the request of other Institutions

### a. Mandatory consultation

■ Culture [Article 151 (129)] [and National Minority Issues]

National minority representatives shall be present at the Committee of Regions plenary sessions. European Commission

A special unit of the European Commission should be created in order to draft proposals for further co-operation among states on minority issues.

European Parliament

To be changed in the Main Features of Electoral Laws of the European Parliament:

“[In all member states,] nominations may be submitted if they are endorsed by the required number of signatures or electors [and not just by political parties and organizations.]”

To be changed in the Constituency Boundaries

[We support regional constituencies as the basic level for European Parliament elections.]

## V. Means

Awareness should be raised about problems concerning national and/or minorities especially by providing a permanent dialogue between national and/or ethnic minorities and majorities and working in close cooperation with these groups. ■■

<sup>i</sup> Draft Treaty Establishing a Constitution for Europe, adopted by consensus by the European Convention on 13 June and 10 July 2003

<sup>ii</sup> Council of Europe Parliamentary Recommendation 1201 (1993) on an additional protocol to be adopted by the Assembly on February 1 1993.

<sup>iii</sup> Article 3.1 of the Framework Convention for the Protection of National Minorities, Strasbourg, 1. II. 1995

<sup>iv</sup> Article 7.1 of the Recommendation 1201 on an additional protocol on the rights of national minorities to the European Convention on Human Rights, of 1993

<sup>v</sup> Article 8.1 of the Recommendation 1201 on an additional protocol on the rights of national minorities to the European Convention on Human Rights, of 1993

<sup>vi</sup> Article 6 of the Recommendation 1201 on an additional protocol on the rights of national minorities to the European Convention on Human Rights, of 1993

<sup>vii</sup> Article 11 of the Recommendation 1201 on an additional protocol on the rights of national minorities to the European Convention on Human Rights, of 1993

<sup>viii</sup> Article 5 of the Recommendation 1201 on an additional protocol on the rights of national minorities to the European Convention on Human Rights, of 1993

# Local governments and national minorities in Romania

by Veress Emőd\*

Local governments and national minorities are two distinct issues, but with close connections. In the first part of this paper, I give a general overview of local government in Romania; after that I sketch the status of national minorities in Romania, in the context of local governments.

## *The importance of local governments*

The importance of local government is undeniable.

1. - **Political importance.** Local government is natural for local communities, an obvious and obligatory type of political organization. The existence of local governments prevents the over concentration of political power and also allows for different political choices in different localities (Sharpe 1973; Stewart and Greenwood 1995). Local government it is a form of control of the central government, and a way to express certain values (local democracy, democratic decisions on local public affairs, multiculturalism etc.)

2. - **Economic importance.** Sometimes more costly and less efficient than a centralized system, the (decentralized) local government system has also its economic foundations, arguments sometimes in close connection with the political reasons. Fiscal decentralization contributes to an efficient provision of services by matching expenditures more closely with local priorities and preferences: (i) residents of different localities will generally prefer different types and mixes of public services; (ii) a decentralized government is better informed about the local needs; (iii) the administrative efficiency in the provision of certain services may be improved etc. (Capková 1997). With decentralization, local authorities are closer to the results of their own decision (Swianiewicz 2003); they can much easily make the necessary policy corrections than central authorities.

Due these political and economic reasons the establishment of the institutions of local democracy in Romania and the other post-socialist countries was one of the most important reforms after the collapse of the communism (December 1989).

## *Traditions and “counter traditions” in Romania*

The reform, the establishment of a democratic local public administration in Romania it was not easy, contrary, it was hard, and it was a long reform, which is not at the end even today. Why? Because lack of tradition, because the tradition was different and dissimilar (I call these “counter traditions”).

1. - Romania became a hole in 1918-1920, after the World War I, by the unification of different historical provinces, with diverse society and ethnic composition. The **myth of national unity** played a historical role in the creation of the Romanian state. In fact even the Romanian population was a holder of different expectations; beside them a great number of national minorities became Romanian citizens.

This diversity and the political actions of the neighboring countries (especially Hungary wanted the revision of the peace-treaties and of the territorial organization concluded after the war) generated a fear of decomposing. This is why the myth of unity was over exaggerated, and translated into the **doctrine of the unitary state**. Generally, in the interwar period the unitary state was considered as a synonym of the centralized state, and real decentralization was seen as a threat on the unity of the country. According to this point of view, the state cannot be unitary, if important functions are decentralized to autonomous local authorities. The doctrine of the unitary state does not take into consideration the fact that a decentralized state can be unitary as well. This doctrine is alive in an attenuated form also in the present day.

As a consequence of this doctrine, the Romanian language does not use the term “local government” even today; the term used is local **public administration**. In this paper I will use the term local government, which covers the present Romanian reality. But the exact translation of local self-government into Romanian (“autoguvernaare locală”) leads to a suspicious form of territorial autonomy. This is why local government must be translated into Romanian as local public administration (“administratie publica locală”).



2. - The **legacy of 40 year of communist dictatorship** was a highly centralized state structure. The over-centralized state was the immediate heritage, the existing base on which the democratic local government had to be built up after the fall of the dictatorship (1989).

The Soviet type administrative organization, implemented in Romania too, was a hierarchically subordinated system of people's councils; all commands getting down from the top to each consecutively lower level.

Elections (both central and local) were permitted only for the single party (Romanian Communist Party). The economy was integrated into public administration (with very few exceptions). The leftist totalitarian regime was also characterized by the social ownership of property (abolition of private property). The Romanian Communist Party controlled the state and society. This dictatorship can be differentiated by the personality of the dictator (Gheroghiu-Dej and Ceaușescu), the terror of the State Security, and a very strange but explainable presence and growth in importance of the nationalist ideology.

3. - The "revolution", the transformation of the regime (1989) did not led to a radical change of the communist political elite; only the first forefront of leaders was "cleared" away. The second line learned very slow real democracy; they were socialized in the communist regime.

4. - The political and ideological traditions are very hard to change. Romania has been one of the most centralized states in Central and Eastern Europe.

5. - Lack of human resources (skilled persons) at local level, both politicians and public servants. It was a problem, and in a lot of areas, especially rural areas, it is also difficult nowadays. The lack of experienced staff is a major problem: it is not easy to effectively run and manage a local government. Some positive examples arise too.

6. - Inefficiency and corruption.

**All these factors determined the shape of post-socialist development. History has left Romania with these major problems in developing effective local governments. The task: transform the over-ordination of communist local state administration into local government, in the service of local communities. This task was completed, in general, successfully, but not without problems, and**

**further development is needed.** Under these conditions, an immediate and rapid change was impossible. The development of local government in Romania was a staggered and gradual one, reflecting the slow democratization of the society and of the political elite. And it is an ongoing process even now. For example, this year were passed a new law on local public finance. The practice underlined the verity of the words of János Kornai, an eminent economist: "A change of government is not a change of system, merely one of the pre-conditions for it. The change of system is a historical process that seems likely to require a long period of time." (Kornai 19).

### ***Positive influence***

To triumph over the "counter traditions", a lot of actions and influences **determined positively this evolution**. Some of them are: (i) Change of attitudes and mentalities. (ii) Foreign examples, pressures, recommendations. (iii) Legislative reform. (iv) The main goals of the country and its society: NATO accession and European integration. (v) Civil society (NGOs): a growing number of professional NGOs. (vi) Diversification of mass media. Without diverse and (at least relatively) independent mass media democratization is unimaginable. (vii) Delimitation of local, county and national public and private property. (viii) Associative structures of local governments.

Some **international organizations** played a crucial role in the evolution of local government. We have to mention at least three of them: the Council of Europe, the European Union and the United States Agency for International Development (USAID).

The effect of Council of Europe was significant. In 1993, Romania was admitted to the Council of Europe. In 1995, The Congress of Local and Regional Authorities of Europe (CLRAE), a specialized body of the Council of Europe, adopted a very critique county report on the state of local democracy in Romania. As the effect, the law on local public administration was seriously amended, taking into consideration the critiques formulated by the Congress. In 1997, were ratified the European Charter on Local Self-Government. In 2001, were drafted a new law on local public administration, taking into consideration the provisions of the charter and the problems raised by the everyday practice of public administration.

Local governance in Romania had a gradual development, and in the first part of the evolution we cannot

talk about real local governments in Romania. The **minimal requirements for a real local government system** were reached in 1996-97-98. (In 1998 the first law on local public finances were drafted, also the law on public property; the law on civil servants were adopted only in 1999 etc.).

### ***Administrative-territorial organization of Romania***

The Romanian administrative-territorial organization has a three-tier structure:

1. - **Lower-tier (basic) level:** towns and communes. The commune is a rural administrative unit composed of one village or several villages grouped together on the basis of economic, socio-cultural, geographical and demographic criteria.

A town is a center of population having achieved a certain level in terms of economic, socio-cultural and urban development. Some towns are assigned the legal status of municipalities.

In Romania in 1998 were 182 towns, 80 municipalities and 2,686 communes. The communes together include 13,000 villages. These figures changed since 1998: new communes were established, and some of them declared as towns. Some towns were declared municipalities. In Romania, 57,3% of the inhabitants are urban population. The capital city, Bucharest has municipality status.

2. - **Upper-tier level:** the superior administrative-territorial unit is the county (judet). Romania has 42 counties.

3. - **National level (the State).**

The local governments operate based on this administrative-territorial structure. At basic level activates the **local council** (deliberative authority), and the **mayor** (executive authority). There is no formal difference between commune and town local governments, in terms of responsibilities. At county level operates the **county council** (deliberative) and the **president of the county council** (executive). There is no subordination between county and the local level; there are two tiers of local governments, with specific functions and responsibilities. The local governments are organized on the grounds of the principles of the local autonomy, decentralization of public services, eligibility of the local public administration authorities, legality and consultation of the citizens in the solving of the local matters of a

particular interest. The applying of these principles shall not harm the character of national, unitary and indivisible state of Romania. **Local autonomy** means a **vertical separation of power** between the central government and local governments: the right and effective capacity of the local public administration authorities to solve and to manage, in the name and in the interest of local collectivities that they represent, the public matters, under the terms of the law.

In 1998 were established **8 development regions** (each of them comprise several counties), without legal personality and territorial-administrative status. Their purpose is statistic, economic planning and economic development. In each development region functions (i) the Regional Development Councils (formed by local government representatives: county council presidents, and a representative from a commune, town and municipal local council from each county), and (ii) the Regional Development Agencies (formally NGO's). The aim of the Romanian regional development policy is narrowing the existing regional disparities, in particular by stimulating balanced development and accelerating the recovery of those zones that are lagging behind in point of development, due historical, geographic, economic and political circumstances and the prevention of new disparities and regional imbalances.

The formation of regions is really against Romanian historical and cultural traditions, and even the present "soft" regional policy is very hard to implement. The current situation was established on the pressures of the EU, with PHARE assistance. The latent disinclination and unwillingness is based on the mentioned doctrine of the unitary state: regions can be easily considered as a threat against the unity of the state. This is why the regions were established in 1998 formally by down-top approach, as an association of local governments, informally by the central government. The development regions take no into considerations the historical regions, sub-regions. The Romanian public opinion must understand that the economic development regions does not question or undermine the unity of the state, they serve the interest of Romanian citizens. Decentralization or establishment of development regions does not concern the unitary character of the state, because sovereignty is not transferred to local units. Federalization is incompatible with the unitary

character of the state, but local autonomy and decentralization is compatible (Gohin 1992).

### **Local democracy**

1. - **Elections.** Election of local and county councils and mayors (governed by the Law on Local Elections) is by universal, free, equal, direct and secret ballot, for a four-year term.

The law, on the basis of the number of inhabitants, determines the number of councilors. The first local elections after the fall of the communism were held in 1992 (after that, in 1996 and 2000). The fourth local elections will be organized next year (2004).

The councils, among its members, elect the deputy mayors and the president and vice-presidents of the county council. With his election, the deputy mayor loses his mandate as councilor. This is a way to ensure local separation of powers between the executive and the deliberative. Presidents and vice-presidents of the county councils preserve their mandate as councilors. Communes and towns each have a deputy mayor; county capital municipalities two deputy mayors. The mayor may delegate some of his functions to his deputies.

2. - **Referendum.** The referendum has also its importance:

(i) By referendum, under certain conditions, the mayor can be dismissed

(ii) The boundaries and the status of territorial-administrative units can be changed only if a previous consultation by referendum is organized (the result of the referendum is not compulsory). It is a great satisfaction to see all the local initiatives, reestablishment of communes, and the expectations of the people in the communes transformed into towns. They assume the higher fiscal burden, in order to help their localities to evolve.

(iii) In all general interest matters can be held a referendum (not very used in practice)

3. - **Participatory procedures.** (i) Citizens can attend both the ordinary and special meeting of the local and county council, except when councilors decide, by a majority vote, to hold meetings in private. In some cases private meetings are prohibited. (ii) The local and county councilors are obliged to organize periodic consultations with the citizens. (iii) The mayors, deputy mayors, presidents and vice-presidents of the county council have public hours to

meet with citizens and take into account their requests, proposals and criticism. (iv) There is a possibility of public consultations: soliciting the participation of the citizens on a consultation meeting on a particular problem. (v) There is the right of citizens to petition.

### **Today problems in the Romanian local public administration system**

I want to give an honest **review of local government problems in Romania**. Some of these are common to all post-socialist countries; some of them are specific to Romania. In some cases, I can tell about positive changes, in other cases there is no prospective for prompt changes. This review of problems is only an outline of the complex realities.

1. - The **constitutional framework** of local government is too superficial. The Romanian Constitution came into force in 1991. In that period, the ideological changes just began: this is why the principles of local autonomy and decentralization were declared, but no constitutional guarantees were established. The constitutional reform must take into consideration this, and reformulate and deepen the constitutional framework of local governance in Romania.

2. - The local governments “cries” for more money. In a country, where the central government is in a desperate **need of financial resources**, it is not easy to find the necessary balance. Those local governments are successful, which tries to manage the local tasks not only expecting more money from the center, instead of this trying to manage local needs by privatization, attracting green-field investments, creating industrial parks, developing rural tourism etc.

3. - **Administrative decentralization** (decentralization of tasks and competences) is always a step forward than **fiscal decentralization** (financial means for local governments), and there is a gap between resources and tasks. In the field of the balance between responsibilities and resources there are no problems with the regulatory framework. But the everyday practice shows real difficulties. The Law on Local Public Administration determine as general principle that “central authorities can not establish or impose any kind of responsibilities on local ... authorities in the process of decentralization of certain public services or of creating new public services without the ensuring the adequate financial

means for achieving the respective responsibilities". The law also states "the resources must be proportional with the responsibilities stipulated by law." The Law on Local Public Finances also includes this general rule. The government, in contrast to these very important legal regulations, decentralized certain charges - in fact complex responsibilities - without ensuring the financial resources necessary to settle on these problems. Few examples: the census passed and left behind some serious financial problems for local governments; the problem of district-heating public service; the questions raised by the decentralization of the health care system; the responsibility of assuring the minimal earnings to the disfavored persons. The biggest problem is the absence of a transparent decentralization strategy. And the economic environment for fiscal decentralization was a general macroeconomic decline, which negatively influenced the fiscal possibilities of the local governments too.

The presence of **subjective criteria** in transfers of funds is also a problem.

4. - The **central supervision is very strong**. The Romanian local government system is a fused system, because the local governance is combined with this strong central supervision. The main actor of this control is the prefect. The prefect is an appointed representative of the central government in each county and Bucharest, the capital city.

According to the law, he is active in two main fields: (i) He exercises the legality control over the acts of local governments. This is a soft form of control, because is limited only on the legality of the acts, the opportunity of acts fully depends on local governments. The prefect can only bring an action to the court; he cannot decide itself about the act. There is no hierarchical subordination between the prefects on the one hand and local councils, county councils and mayors on the other. The legality control over local governments' acts is all right. But there are two problems: a) first, the control is exercised by a political person, the appointee and the political agent of the central government (of the governing party/parties). This frustrates the parliamentary opposition parties, some of them ruling in a certain local government. b) Second, the local government act, contested by the prefect through an action brought to the court, is automatically suspended. Local governments' opinion is that the suspension of the act cannot be automatically. The legality of the

act must be presumed until the court says is not so. And the possibility to suspend the act can be recognized to the independent court, in the case of necessity. (ii) The prefect is the coordinator of the de-concentrated state agencies in the counties, dealing with public safety, agriculture, health, education, culture, environment and social protection etc. This role and this strong presence of de-concentrated central agencies at county level is a problem itself (further decentralization needed).

Beside this formal role, the prefect has an informal, but powerful task: he is the "strong man" of the ruling party, and from this position he exercises a great influence on local governments. This informal authority is very strong and against the principle of local autonomy.

In this field, positive transformation occurred and occurs. The powers of prefect were gradually limited. For example, according to the practice of gradual development, the much contested power, which enabled the prefect to suspend the mayors, were eliminated definitively in 1996. Since 1996, the abusive exercise of the controlling power by the prefect can be punished. And according to a law passed this year, beginning with the year 2006, the prefects will be transformed in high public servants. High public servants, according to the law, cannot be members of a political party, and are appointed based on the results of an exam. This rule, if will be enforced, will transform totally the central control on local governments: it will reduce the political measures in local government supervision.

5. - Another characteristic problem is the **mayor-council relationship**. The problem report oneself in the case if the mayor and the majority of the local council belong to different political groups and/or the relation between them becomes venomous. In those situation the local government practically cannot serve, cannot work, or in the functioning appears tedious disturbances. (The example of Bucharest, Cluj, Braşov, Constanţa, Târgu-Mureş or Odorheiu Secuiesc is very self-explanatory. The case is not different at the level of communes; only the reverberations in the press and the gains are not as relevant at this level as in of municipalities.) The reason of this phenomenon is that the Law on local public administration generated the powers of the local council and the mayor complementarily, presuming the fiduciary liaison, the ability to work together. If this kind of relation doesn't exist, the

problem is emerging.

The mayor shall ensure the implementation of the local council decisions. If the fiduciary liaison doesn't exist, the local council decisions will not be implemented or will be implemented not properly.

The problems are not with the measure of powers of the mayor. The directly elected mayor has a strong legitimacy, and his powers are proportional with this legitimacy. The trammel lie in the nature of legal relations between the local council and the mayor.

There are two possible solutions.

(i) To renounce at the direct election of the mayor, for the indirect election, to change the “presidential-type” system to a “parliamentarian” one. The mayor should be elected by the local council, among the councilors, and in this way, automatically will be elected as mayor the nominee of the political majority of the local council, and the conditions of working together will be assured.

(ii) The less drastic way is to change the quality of relations between the local council and the mayor.

If Romania will chose the first option, the local democracy will not suffer any harm, the legitimacy of the mayor will be assured by the vote of the universally, equally, directly, secretly and freely elected local council. We have to accept that the local democracy is not limited only to the vote, to the way the mayor is elected. The democracy presupposes the operability of the institutions; if the institutions of local democracy do not function well, the democracy suffers.

A deputy suggested, due political and cost-conscious reasons, that the mayor shall be considered elected directly in the first round of the election, no matter if does not get the absolute majority of the votes. In this case, the local democracy truly can be ailed, if a person can become mayor if gets, for example, 21% of the votes. And the basic problem, the relations between the local council and mayor it is not solved, but aggravated, because all of the chances exist for the election of a mayor who belong to a different political group than the majority of the local council.

In the systems of the local government can make a difference between two types of relations between the local executive and the local assembly:

(i) The executive and deliberative functions are not sundered institutionally. In this case, there is no “local separation of powers”, the assembly exercise

the executive functions (through different committees).

(ii) The executive and deliberative functions are situated apart. Three subtypes are possible. a) The local assembly elects the executive institution. This is the parliamentary type; b) The executive institution is elected directly by the local community. This model is presidential type; c) A national or regional authority appoints the executive institution.

These types of relational systems can exist along with each other. This is the case of Romania; the mayor is directly elected, the deputy mayor and the president of the county council are elected among the councilors. The deputy mayor loses his quality as councilor; the president of the county council preserves his quality as councilor.

Similar problems as in Romania rise into view in some other countries too, as Slovenia or Italy. We have to take a close look on their practice, and prepare hastily at least the theoretical basis of the necessary reform.

And just pointing some other problems:

6. - The **regional development** is not really working. Romania must attain heavy infrastructure development. An investment of this proportion can be based only on partnership of the country with international actors; partnership between central and local governments; and partnership between the public and private sector.

7. - **Accountability and transparency** needs more development. Regulations were adopted, and we have to enforce them.

8. - The necessity for **stability in the regulations** on local government suffers. The legislative instability is very high in Romania (the repartition of regulatory power by the Constitution is not clear enough, added to the fact that is much easier for the government to do legal reform instead of real economic reform).

9. - And last, **political “migrations”**: after the 2000 parliamentary elections (with some months after the local elections), a lot of local councilors and mayors migrated to the government party; this changed the political landscape of local governments.

And if we saw all these problems, **the broad areas of further administrative reform are evident.**

### ***Local governments and European Integration***



The *acquis* contains no regulations on local government. Local government and national public administration is not subject of integration, the sovereignty of the member and candidate states in this field is not transferred to the institutions of the European Union.

But the **indirect influence** of the EU is very powerful. There exist general expectations relating the public administration system: we can talk about common values and common expectations, with a very important accent on efficiency in implementing European policies. One of the main challenges still facing the candidate countries is the need to strengthen their administrative capacity to implement and enforce the *acquis*. The European regional policy has a strong impact on local governments. The effect of the Council of Europe's activity is more express than the influence of the EU; some very important international regulations (European Charter of Local Self-Government; Framework Convention for the Protection of National Minorities; European Charter for Regional or Minority Languages) were elaborated under the competence of this international organization.

### ***National minorities in the context of local governments***

Citizens belonging to national minorities have everyday contact with local government. From other point of view, local governments have to deliver specific services to persons belonging to national minorities (culture, education). And sometimes, general issues are related to a national minority (ex. housing problems of the Roma minority). These are the main contact points between the two questions discussed here.

After the overview of the general situation of local governments in Romania, I will point the legal position of national minorities, focusing on linguistic rights, in the context of local governments in Romania. The linguistic rights of the persons belonging to the national minorities were established gradually, as the whole development of the democratic local public administration was.

1. - From 2001, the new **Law on Local Public Administration** grants the following rights:

(i) In the territorial-administrative units in which the citizens belonging to the national minorities by a share of over 20% of the number of the inhabitants,

the local public administration authorities shall ensure, in the relations with them, also the use of the mother tongue, in keeping with the provisions of the Constitution, of the Law on Local Public Administration and of the international conventions to which Romania is a party.

(ii) In the communes or towns in which the share of the citizens belonging to a national minority is over 20 % of the number of inhabitants, these shall be informed of the agenda of the local council also in their language, too. In the counties in which the citizens belonging to a national minority have a share of over 20% of the total number of the inhabitants, the agenda shall be brought to public knowledge also in the mother tongue of the citizens belonging to the respective minority.

(iii) The proceedings of the sittings shall be carried on in the Romanian language, the official language of the State. In the local councils or county councils in which the councilors belonging to a national minority represent at least one third of the total number, the mother tongue may also be used in the council sittings. In such cases, the translation into Romanian language shall be ensured by the courtesy of the mayor or the county council president. In all the cases, the documents of the council sittings shall be drawn up in the Romanian language.

(iv) In the territorial-administrative units (counties, towns or communes) in which the citizens belonging to a national minority have a share of over 20 % of the total number of the inhabitants, the decisions of normative character shall be brought to the public knowledge also in the mother tongue of the respective minority, while those of individual character shall be communicated, at request, in the mother tongue, too.

(v) The Romanian language shall be used in the relations between the citizens and the local public administration authorities. In the territorial-administrative units in which the citizens belonging to a national minority hold a share of over 20% of the total number of the inhabitants, in their relations with the local public administration authorities and with the own specialty apparatus, they may also address themselves, orally or in writing, in their mother tongue and shall receive the answer both in the Romanian language and in their mother tongue. Persons that know the mother tongue of the citizens belonging to the respective minority shall also be employed in the positions regarding public relations.

The official documents shall be compulsorily drawn up in the Romanian language.

(vi) The local public administration authorities shall ensure the inscribing of the name of the localities and institutions under their authority, as well as the posting up of the announcements of public interest also in the mother tongue of the citizens belonging to the minority by a share of over 20% of the number of the inhabitants.

2. - The **Law on Civil Servants** (1999) grants the following right: in the territorial-administrative units in which the citizens belonging to a national minority have a share of over 20 % of the total number of the inhabitants, some of the civil servants which has direct contacts with citizens will know the language of the respective national minority.

3. - The **Law on the Statute of Policemen's** (2003) grants the following right: in the territorial-administrative units in which the citizens belonging to a national minority have a share of over 20% of the total number of the inhabitants, policemen that know the respective language shall also be employed.

On the basis of the rights granted for the use of minority languages, five types of practices can be found in European countries (Siguán 1995):

- (i) Countries with only one official language.
- (ii) Countries with only one official language, but the law grant certain rights to people belonging national minorities.
- (iii) Countries with only one official language, but in autonomous regions minority languages have an official status too.
- (iv) Federative countries, in which every federated state has its own official language.
- (v) Officially multilingual countries.

Romania can be included in the second category: Romania, according to the Constitution, has only one official language, but certain regulations grants linguistic rights to people belonging to national minorities (these are not collective rights). This legislation is not working absolutely; administrative or cultural barriers are hindering or obstructing the full enforcement of this regulation. The general situation and the evolution trends are positive, but more progress is required. We have to emphasize: if a law is not enforced or is not totally enforced, the rule of law does not exist or is seriously weakened.

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# Roma in Romania

by Florin Moişă<sup>1</sup>

The Roma represent one of the largest minority groups in Romania. Different social and historical contexts have created asymmetrical power positions between Roma and non Roma: when slavery was abolished at the end of the 19<sup>th</sup> century, the measures taken to make it effective were not completed and were followed by exclusion and assimilation policies during totalitarian regimes (fascist and communist).

According to the findings of the 2002 census, 535,250 (2.5%) self-identified as of Roma nationality. Sociological findings, however, agree on a much larger figure with regard to the Roma - 4-6% of the country's population, over 1 million. International institutions, on the other hand, estimate the number of Roma in Romania between 1 and 1.5 million persons, while Roma leaders agree on a figure of 2.5 to 3 million.

Before 1989, the Roma minority, as opposed to other minority groups, was not officially recognized as such. Strong assimilatory tendencies of the communist regime were present together with strict control over the organization of the community.

In the aftermath of the 1989 events, the Roma movement in Romania developed greatly; several Roma political organizations appeared, such as the General Roma Union (*Uniunea Generală a Romilor*), the Ethnical Federation of the Roma (*Federația Etnică a Romilor*), the Roma Party (*Partida Romilor*) etc. The progress was evident: the official recognition of the Roma as an ethnic group, political representation based on the Election Law, appearance of new Roma leaders committed to assume representation of the Roma at the political, cultural and educational level.

Today the Roma minority is mixed one: the majority is sedentary, and very few are still nomads; only 45% speak Romani language according to the last 2002 census. The Roma are spread all-over the country's territory and suffer from poverty.

The Roma population faces numerous problems, rooted both in the discrimination and social exclusion of the Roma and in the traditional lifestyle and value system of the Roma communities themselves. The consequences of this situation are:

- a low educational level;
- an increasing state of poverty;
- the lack of work opportunities, unemployment;

- difficult access to social services;
- the undervaluing of the Roma traditional professions;
- a higher than average criminality rate;
- prejudices within the other ethnic groups, marginalization and self marginalization;
- lack of sufficient cohesion between the various Roma groups and
- lack of strong Roma elite capable of properly representing the interests of the community at the societal level.

## Important historical developments<sup>2</sup>

The earliest written information about the presence of Roma on the territory of Romania dates to 1385 - a deed issued by the King (*Voievod*) of Wallachia, Dan the 1<sup>st</sup>, established the assets of the monastery Tismana, among which there were 40 families of Roma (*sălașe de țigani*). It is believed that these first Roma came to Eastern Europe as part of a great migration from India. Over the course of centuries they moved westward through Persia, Armenia and the Byzantine Empire towards Europe. Those Roma who stayed in Romania became slaves, for a variety of economic, military, social and possibly racial reasons.

Throughout the Middle Ages Roma slavery became increasingly integrated with the turning of the peasants into slaves/serfs. The Roma, however, were significant in the region for their skill as craftsmen and they began to be categorized both by who owned them and the type of work they did. Thus, there were distinctions made between those who worked in houses (*țigani de casă*) and agricultural workers (*țigani de ogor*). Similarly, those slaves owned by the crown or state were categorized according to whether their owners were nobles (*sclavi domnești*), the Court (*sclavi de curte*), or rural landowners (*sclavi gospodărești*).

The Romanian Orthodox Church owned monastery slaves (*sclavi mănăstirești*) who, in turn, were categorized as household (*vatrași*), or artisans (*lăieși*). Those slaves belonging to the Crown were classified according to their particular trade. For instance, bear trainers were known as *ursari* and

spoon carvers as *lingurari*. This latter categorization remains even today, with the forty Roma tribes represented in Romania retaining these titles, between them *căldărari* (calderash, metal workers), *rudari* (originally gold seekers), *zlătari* (gold jewelers), *cocalari* (making objects from bones), *vătrași* (settled Roma), *gabori* (Hungarian origin calderash, metal workers), *lăutari* (singers), *ciubotari* (shoe makers), *florari* (flower sellers), *argintari* (silver jewelers), *geambași* (horse trainers), *cărămidari* (brick makers), *lingurari* (wooden objects makers), *ursari* (bear trainers), *ciurari* (small household object makers), *mătăsari* (textile materials sellers), *spoitori* (metal workers), etc.

In Transylvania, during the Austro-Hungarian Empire, a policy of forced assimilation was begun, which echoed what would come later under Communism. Roma were forbidden to speak the Romani language or to practice their traditional trades, to wear traditional clothes and to be nomads. Even referring to oneself as a Roma was forbidden, and *Uj Magyar* (new Hungarian) was the term adopted instead. Anti-Roma feeling was widespread, and Roma rapidly became scapegoats for crimes ranging from petty theft to cannibalism and vampirism.

The beginning of the nineteenth century throughout Europe a new order was emerging and new ideas were coming to the fore. Among them was the assertion that slavery was barbaric and should be stopped. By the middle of the century several slave owners had set an example in Romania by freeing their own slaves; in 1842 this began in Moldavia and in 1844 the church there did the same. The Wallachian Orthodox Church followed suit in 1847, but the laws held firm. It did appear as though change was imminent in 1848, when a radical provisional joint leadership succeeded to the central government in Bucharest and issued a proclamation deploring the barbarism of slavery and announcing the immediate freedom of all Gypsies. This was too short-lived however, as in December 1848 the two principalities were invaded by Russians and Turks, who reinstated many of the laws, and the nobles took possession of their slaves once more. The new rulers, while denouncing slavery, were slow to actually abolish it; on December 23, 1855, the Moldavian Assembly voted unanimously to abolish slavery within the Principality. The Wallachian Assembly did likewise on February 8 the following year.

Once slavery had been abolished many Roma left Romania for Western Europe and North America. Those

who remained soon found that their situation had not improved a great deal. Having been dependent upon their 'masters' for so long they had no way of supporting themselves and many ended up returning to where they had been enslaved and offering themselves for sale once more. This is believed to have affected demographic patterns of Roma in Romania up until the Second World War.

The First World War and the peace treaties that followed increased Romania's minority population by over 18 per cent, from 10 per cent before the war to more than 28 per cent after it. Of these, 133,000 were Roma, comprising 0.8 per cent of the total population. In return for the acquisition of new territory Romania was obliged to commit itself to international agreements relating to human rights and it was therefore hoped that the situation of the Roma would improve.

A change occurred at that time, when Roma began to organize themselves collectively. Nineteen thirty-three saw the founding of the General Association in Bucharest and in the same year a journal, *Glasul Romilor* (The Voice of the Roma) was established and published for six years. Other newspapers followed this lead and organizations were already being set up throughout the country. A conference was held in 1934 to establish the General Union of Roma in Romania. Between 1934 and 1939 the Union worked to promote equal rights for Romanian Roma, but the growth of fascism and the eventual outbreak of the war put an end to that.

In Romania, Marshall Ion Antonescu's pro-Nazi government was vehemently anti-minority, and especially anti-Roma. Mass deportation of Roma began, particularly of nomadic Roma who were primarily thought to be criminals. Some 25,000 Roma were thus sent to Transnistria in 1942 and approximately 19,000 died.

The Communist regime pursued various policies regarding Roma, first settling them forcibly and later ignoring their very existence. Jobs were provided for them under Communism, however (as they were for all Romanian citizens) on state farms and in factories, although prejudice continued. Police raids were allegedly a common occurrence, during which jewelry and other possessions were seized, the authorities claiming that they were the proceeds of black-market dealing.

### Roma civil society development

In the aftermath of the 1989 changes, the Roma movement in Romania developed greatly, especially

as far as politics was concerned; thus, there appeared several Roma political organizations, such as the Democratic Roma Union, the Ethnical Federation of the Roma, The Roma Party and the Roma Union etc. The progress was evident: the official recognition of the Roma as an ethnic group, political representation based on the Election Law, appearance of new Roma leaders that were willing to assume the representation role of the Roma community at the political, cultural and educational level.

These organizations set out to improve the life situation of the Roma communities as well as to obtain certain rights by means of political action. Due to, on the one hand, the lack of interest of the Roma community in the political (electoral) processes, and to their difficulty in making political decisions, and, on the other hand, to the inability of Roma political leaders to elaborate a joint agenda, politics has led to few concrete positive results where the Roma communities are concerned. Parliamentary and local government representation is well under the threshold of the percentage of population the Roma represent.

As a consequence of the somewhat modest success of the political initiatives, after 1993 all across the country were created several non governmental organizations, founded by persons belonging to the Roma minority; these organizations were aimed at offering educational support, expressing Roma culture and traditions, community and economic development, research and social intervention, combating the prejudices and stereotypes.

To date, these organizations add up to over 100, including here the branches of the "Partida Romilor" and "Alianta pentru Unitatea Romilor", the two main political oriented Roma organizations. The systemic involvement of the Open Society Foundation (OSF) Romania in the funding of Roma programs created after 1997 a qualitative and quantitative raise of the Roma NGOs movement. Directly or indirectly, the OSF Roma program helped the creation and development of about 15 Roma NGOs - these are located especially in the Bucharest and Cluj Napoca area.

From a geographical point of view, the Roma NGOs are distributed unequally at the national level. The concentration is in Muntenia, the south part of the country (Bucharest 15 NGOs, Dolj county 6 NGOs, etc.) and in Transylvania (Cluj county 11 NGOs, Maramures 7 NGOs, Sibiu 6 NGOs, Hunedoara 5 NGOs etc.). Less represented are Moldova, Banat and Dobrogea. This distribution of NGOs is similar to the development of the civil society at the general level of Romania.

### *Roma NGOs quality*

The expertise and human resources at the local level are limited. A higher potential exists in the big cities - Bucharest, Cluj Napoca, Timisoara, Bacau, and big Roma organizations, where the investment in human resources, opportunities and access to information was more consistent. But, we can see also a significant progress in some of the small towns like Dej, Deva, Ludus, Caransebes, Petrosani - in these towns the existence of a key person that took initiative was the solution.

With all the progress in the number of project proposals sent to different funders, there is an important lack of accession of funds and proposal writing.

The organizational strategies and the project management still have to be improved. The Roma NGOs are lacking essential elements like: the separation of decision making levels (strategic and executive), organizational chart, job descriptions, and conflict of interest policy. Also, there is a lack of strategic planning on medium and long term.

Where they exist, the partnerships are formalized (not always functional) or informal. The partnerships were initiated ad-hoc or situational. Usually one organization assumes the leadership role in the implementation of the projects.

The projects had quite different beneficiaries - local NGOs, authorities, mass-media, and individuals. Even if the methodology for monitoring and evaluation of projects was improved, the number of beneficiaries is difficult to be quantified.

Very few of the project co-coordinators and partners have a clear image of the continuation, sustainability of the projects. This is due to, on one hand, of the lack of strategy on medium and long term and on the other hand, of the lack of understanding of the priorities for European integration.

### **Roma and the EU accession process**

The Roma community continues being faced with more and more pressing problems as the Romanian society attempts to put behind the transition phases and to fulfill the international standards required for the integration in the European Union and the NATO. The problems of the Roma can no longer be considered an internal problem of the Roma community; rather, it is a problem that impacts systemically on the Romanian society as a whole.

The accelerating process of European integration has



focused attention on the Roma issue through the adoption and monitoring of the Copenhagen criteria for EU accession. The last years EC Regular Reports issued by the European Commission express the fact that Romania is fulfilling the political criteria for accession to EU. The 2002 Regular Report on Romania mentioned the following: "Discrimination against the Roma minority continues to be widespread in Romanian society, and the social inequalities to which the Roma community is exposed remain considerable. Living conditions are poor, access to social services remains limited and human rights organizations have received credible reports of police harassment. Against this context, the Government has made steady progress in implementing last year's Roma Strategy, which is explicitly aimed at addressing discrimination."

In view of ensuring the unitary/coherent representation (when compared to the state institutions and initiatives), in 1999 was created the Working Group of the Roma Associations (GLAR). The Working Group issued several documents, including a "General Policy Recommendation" on the implementation of the Government program for improving the situation of Roma. In 2001, a new body was organized (Federation Framework Convention of Roma) in order to become the Government partner in the implementation of a future Strategy. In February 2001, the Federation Framework Convention of Roma (FFCR) was established as an association of five Roma NGOs,<sup>3</sup> which submitted a second general policy recommendation to the Prime Minister's office shortly thereafter.<sup>4</sup> From a historical and political point of view, this two policy recommendations are a milestone of the future development and representation of the Roma.

It is essential to say here that even if the "writing down" of the Strategy was the job of the Ministry of Public Information, the document is first of all the result of the efforts made by the Roma NGOs and only on the second place a result of the involvement of the public institutions.

While progress can be registered in establishing the institutional framework to improve the conditions of the Roma, progress on the ground is very slow. The Government and the Roma community succeeded (April 2001) in the elaboration of the "Strategy for Improvement of the situation of Roma", a programmatic document that combines both the poverty perspective and the social exclusion/discrimination perspective.

The elaboration and implementation of this strategy

has received support from the European Commission as part of the Pare programme. Implementation of the strategy is co-coordinated by the National Office for Roma; a Joint Committee for Monitoring and Evaluation was created to ensure coherence between sectoral strategies and support in all fields of the strategy. The Ministerial Commission for Roma within each Ministry is responsible for the implementation of the sectoral strategies.

The strategy is based on principles of consensus, social utility, and sectoral division, decentralization in the implementation, compatibility of legislation, identity differentiation and equality. According to the GoR, decentralization of execution in strategy implementation implies that, alongside the responsibility of the (central) Government, local administration authorities - in collaboration with NGOs - should also take responsibility. In order to make the decentralization of implementation possible, the Government has started hiring public servants from Roma communities at the county level (County Bureau for Roma) and at the level of towns and villages with a large Roma population. These public servants at the local administration level will be involved in identifying the problems and possible solutions in the Roma communities. The collaboration of public administration (at the central and local level) with Roma civil society, which is emphasized by the Government in the strategy document, is a factor that can contribute to the success of such initiatives as a large number of NGOs have already important experience in working with Roma communities and initiated and implemented projects in partnership with public institutions.

There are 41 experts employed at county level and approximately 400 experts employed at local level (mayor's office). Joint Working Groups have been established, but they experience operational difficulties due to a lack of collaboration.

The strategy includes a medium-term Master Plan of Measures (Ch. IX) for the period 2001-2004 that stipulates concrete actions with precise deadlines and clear responsibilities for the institutions and covers the following sectors: community development and administration; housing; social security; health care; economy; justice and public order; child welfare; education; culture and denominations; and communication and civic involvement. Some of the measures are specifically designed for Roma communities while others address underprivileged groups in general and will reach Roma ethnics who fall in a large number in this category. The specific measures targeting Roma

communities include improvement of collaboration between local authorities and Roma representatives, educational and sanitary mediators for Roma communities, vocational training and re-valuing of traditional occupations, etc.

Even all these means positive developments, several weaknesses are also relevant to be mentioned. First of all the level of funding for the implementation of the Strategy remained low and this is making almost impossible the implementation of the 123 “Master Plan of Action” measures. The mechanisms for coordination of the Strategy are not functioning properly and the participation of the Roma representatives in the Mixed Committee for Implementation and Monitoring is inexistent.

According to some Romani activists, the Government’s reliance on a single political organization to represent the Roma community has had the effect of fragmenting the Roma NGO community. According to one representative, the Federation Framework Convention of Roma has ceased virtually all its activities due to the “politicization of the Strategy and of the fact that the Government treated the partnership with the Roma civil society differently” and “associated unilaterally and preferentially, without taking into consideration the degree of expertise, with a sole [representative] of civil society... violating the principles of the Strategy...”<sup>5</sup>

### **Roma on the international Public Agenda**

The World Bank and the Open Society Institute organized a conference supporting Roma integration and addressing Roma poverty in Central and Eastern Europe, with the support of the European Commission. The conference took place in Budapest on June, 2003 and Prime Ministers from a number of Central and Eastern European countries, including the Romanian one, participated together with other participants like Roma and non-Roma NGOs, civic groups and international organizations.

The event was designed to raise public awareness about the unique economic development challenges facing Roma in the region and to identify policies and programs that can effectively address poverty and discrimination. Generous support for the conference was provided by UNDP, the Council of Europe Development Bank and the Governments of Finland and Sweden.

A central part of the conference was contributions by Roma organizations. The event discussed what kinds

of policy innovations were needed to address Roma issues, as well as how to incorporate lessons from existing projects into future policies. The most important result of the conference was the launch of two historical initiatives, namely the Roma Education Fund and the Decade of Roma Inclusion<sup>6</sup>.

### ***Roma Education Fund***

The objective of the proposed Roma Education Fund is to improve the sustainability of initiatives to improve the educational status and performance of the Roma population in Central and Eastern Europe by providing additional finance for programs that will help reduce the gap in access to quality education between Roma and non-Roma and for which effective demand has been demonstrated to exist. The objective of the proposed Decade of Roma Inclusion is to accelerate and raise the profile of actions to improve the economic status and social integration of the Roma population in the CEE countries by developing appropriate performance targets and policies to achieve those objectives, and by monitoring performance in meeting them.

### ***Decade of Roma Inclusion (2005 - 2015)***

The objective of the proposed Decade of Roma Inclusion is to accelerate progress in improving the economic status and social inclusion of the Roma population by creating an action framework comprising three activities:

- The setting of clear, quantitative *national targets* for improvements in economic status and social inclusion of the Roma population, and the establishment of the necessary information base to measure progress toward these targets.
- The development and implementation of *national action plans* to achieve those targets.
- Regular *monitoring of progress* against agreed targets, and *adjusting action plans* as necessary over the *Decade*.

It is expected that these initiatives will reduce the severe poverty among Roma in Central and Eastern Europe as they have been one of the most striking developments in the region over the past twelve years. Also, it is expected that such policy initiatives will contribute to reduce of the persistent disadvantages in education, including low school attendance and overrepresentation in special schools, which limited future opportunities.

It is clear that without such coherent and sustainable

national and international policy interventions, the Roma will remain in severe poverty. This is the challenge that both the national and international institutions and the civil society must face in the next years. An essential part will play the real participation of the Roma in the process. ■■

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<sup>2</sup> Viorel Achim, *The Gypsies in the History of Romania*, (Tigani în istoria României), Editura Enciclopedica, Bucuresti, 1998

<sup>3</sup> Consisting of the Roma Social Democrat Party (Partida Romilor in Romanian, RSDP), Romani CRIS, Aven Amentza, the Community Development Agency "Together" and the SATRA/ASTRA Association of Anti-Racist Roma Students.

<sup>4</sup> Unpublished Recommendation, submitted to the Prime Minister's Office on 8 February 2001.

<sup>5</sup> "Implementation of GD 430/2001 'Strategy for Improvement of the Situation of Roma,' Alternative Report," Aven Amentza magazine no. 19-20, April-May 2002.

<sup>6</sup> See also web page:

<http://lnweb18.worldbank.org/eca/ecshd.nsf/roma/roma+conference>

## The Romanian Constitution and the EU Draft Constitution<sup>1</sup>

by György Frunda<sup>2</sup>

This paper offers an overview of the Romanian Constitution, specially concentrating on minority rights. It includes a brief presentation of the Council of Europe recommendations, as well as of charters and conventions on the rights of national and ethnic minorities. Finally it contains an explanation of what would be the link between the Council of Europe documents/legal instruments and the proposed draft constitution on the European Union level.

I know very well the Romanian Constitution, not only because I am a Senator in the Parliament of Romania. When the new Romanian Constitution was written in the period of 1990-1991, I was member of the drafting committee. We were twenty-one members there altogether and the Hungarian minority had two places reserved, including Mr. Hajdu Gabor, former Romanian minister of health, also a former Senator and me. All the political parties from the Parliament were represented in this committee, which benefited from the help of nine experts in constitutional matters. It has to be hereby admitted that at those times Romania did not have any links with the democratic constitutions. For instance, I was personally taught in the high school that the share of power within the state is nonsense, and that the socialists are brighter to allow only one political party as power holder. Therefore we had to start from the basics.

First of all we had to learn what a democratic constitu-

tion is, and the Council of Europe, the United Nations, several countries like France, Spain, Germany, and the United Kingdom helped us when drafting it. The body had two sub-committees, one dealing with human and minority rights, the other one discussing and drafting the institutional structure of a democratic state. We worked for more than one year and our debates in the committees were sometimes extremely tough, especially when we discussed the rights of national minorities. The main reason for that is that Romania is a young country. It was in fact born in 1918 or more precisely in 1920 after World War I, when the Peace Treaty from Paris actually established Romania. After World War II the country lost a part of its territory that now partly belongs to Moldova, an independent country, and to Ukraine. Therefore after 1918 the Romanians, who have tried in all the political periods to copy the French system, became extremely nationalistic. And at those times this had an adequate explanation: Romania was a new country, until World War I Transylvania belonged to Hungary and after it all the nations strived to take back the territories lost during the wars. Romania also tried to remain closed in itself, being nationalistic, or even aggressive allying to the "one nation is one country" principle, sustaining that everybody is Romanian within its newly established borders. This was the official standpoint despite the fact that at those times a huge Hungarian community: two million people, a German community of more than one million persons, a sizeable

Jewish community of 800000 people - a compact group in Transylvania and another in Moldavia-, and other smaller minorities like the Ukrainian, Bulgarian, Russian, etc. lived on its territory.

In the aftermath of World War II, and especially under the Ceausescu dictatorship the assimilation of national minorities became one of the main political targets. The Ceausescu dictatorship claimed that everybody is Romanian in Romania, and the politics was accordingly aggressive in this matter. For instance, those graduating from high school were obliged to go and work where the government assigned them. It meant for instance that the Hungarians were obliged to work in Moldova, the Eastern part of Romania, or in the southern part of Romania, where practically everybody belonged to the majority population. This also meant that there they did not have anybody to talk to in their mother tongue, that they could not go to church, did not have the opportunity to buy books or to read newspapers in Hungarian, and therefore lost all contacts with their community. As a consequence they had to choose: either to be assimilated or to become Romanian. Most of the young people, of your age, could not choose either of the two. And this is the explanation why thousands and thousands of Hungarians left the country between the mid-seventies and 1989, mostly establishing themselves in the neighboring Hungary, but they can also be found scattered all over Europe and United States. For instance most of my colleagues do not live now in Romania. More illustratively, here in Targu Mures / Marosvásárhely there is a famous medicine university. In the period from the sixties to late eighties more than 2500 Hungarian doctors graduating from this institution left the country. I presume that from this number it is sizable how big the loss of young intellectuals within the Hungarian community was.

In the last period of the Ceausescu dictatorship politics became so aggressive that it destroyed Hungarian villages, it forbade the Hungarian language Radio, TV broadcasting, the Hungarian newspapers, which anyway became at those times mere translations of the Romanian ones. What I am putting forward here is not a comprehensive explanation for all these happenings, but a simple illustration that they indeed frightened the Hungarian minority, so thousands and thousands of people, about 10000 Hungarians left Romania. Moreover, the Romanian government has practically sold out the Germans and the Jews. Under the Ceausescu regime the Romanian government was paid 5000 USD for each German and Jewish person that left

the country. This was the official policy of the Romanian government. Through all this background information I wanted you to understand the xenophobe, intolerant, the anti-Hungarian and anti-Jewish general mentality in Romania characterizing the early nineties. We had to draft the new Romanian Constitution in this atmosphere.

We had extremely hot debates with some of our Romanian colleagues in the constitution-drafting committees. At those times the international community across Europe and the governments of several European countries helped us in sustaining our standpoint. What our colleagues from the committee wanted to see in the end was a so-called national constitution, which defines Romania as a national state obliging everybody to speak exclusively Romanian in the public sphere, rejecting all rights to national minorities. On the other hand we were there two Hungarians and one German, trying to fight for our rights. The international legal instrument from where we took our supporting arguments was mainly the Copenhagen Declaration. In 1990 the EU member states adopted this document, which emphasized the right of the national minorities to use their own mother tongue both in the public and private spheres, equally in writing and orally. It also assured the right to autonomy for the national minorities, defining as a basic principle the right of the national minority to maintain, express and develop its own identity.

In these negotiations with the Romanian majority when drafting the Constitution, the representatives of national minorities had only a few votes therefore no real chance to influence decision-making. The process was in fact a long political debate and dialogue with the president of the country, with the Council of Europe representatives, with delegates of other governments and experts in constitutional law, including judges from various constitutional courts. However, it was absolutely impossible to convince the Romanian colleagues to give up the definition of nation state. Conferring the Romanian Constitution, its first article, first paragraph states that Romania is a sovereign, independent, unitary and indivisible nation state. Logically, this is the main principle of the Constitution, because it is commonly known that the most important matters are set out in the first article, defining the nature of the state. The main consequence of this is that Romania is a nation state, implying that there is only one nation in Romania, the Romanian, there is only one language, the Romanian, only one religion, the Orthodox, only one

tradition, the Romanian one and so on. This was however simply not the case, since in Romania there are 16 national minorities represented in the Parliament only, thus it would be logical not to define the country as nation state.

Current statistics reveal that in Romania 7,3% of the population is Hungarian, meaning around 1,5 million persons. They mention 160000 Roma, but the reality is that there are more than 3 million Roma persons living in the country. The reason for this difference in numbers is that Roma are not proud of their identity, meaning that if they live in the Romanian community, they define themselves as Romanians, whereas if they live in the Hungarian community, they self-define as Hungarians, but in unofficial situations they feel Roma. As a tendency, the number of those persons who define themselves as Roma increased from 300000 to 600000 in the last ten years. One of the reasons might be that now they feel that they can say that they are Roma, have to define themselves as Roma, and can even benefit from this.

In the period of 1990-1991 when we worked on the Constitution, there were around 200000 Germans living in Romania, most of them in Transylvania around Kronstadt / Brasov / Brassó and Hermannstadt / Sibiu / Szeben, the Saxons. The German name of Transylvania was Siebenburgen, meaning "the seven fortresses". In the area called Banat the so-called Svabians reside (this is a characteristic regional German identity). In 1990 around 100000 Germans left to Germany. Who stayed was mostly too old to leave the country.

There are also Ukrainians, Russians and Bulgarians living in the country as minorities. There were 800000 Jews before World War II in Romania, now they are less than 16000. As a historical witness, in this town Targu Mures / Marosvásárhely / Neumarkt, we have two synagogues, because between the two world wars a very strong Jewish community lived in the town.

Coming back to the Constitution, all these national minorities expressed their will to assert their rights in the framework of such an important legal instrument. The Romanian politicians made a compromise in the end of this long negotiation process. The Romanian state is still defined as national, but Article 6 of the Constitution, when setting out the main principles, states that the state recognizes and guarantees the rights of persons belonging to national minorities, the preservation, development and expression of their ethnic, cultural, linguistic and religious identity. I believe that there is a contradiction between these two

provisions of the Constitution, clearly a result of the negotiations between the representatives of Romanian political parties in the Parliament and the ones of national minorities in Romania. I have to emphasize that without the help of Council of Europe, or that of the governments of European states and the United States we would not have this article now in the Romanian Constitution. As a result there is presently on one hand a provision that makes stronger the character of the Romanian nation state; and on the other hand a provision that supports national minorities. All these statements are in contradiction. For instance, Article 13 states that in Romania the official language is Romanian. This means that in any Romanian institution only Romanian can be spoken. Fortunately, this provision is presently invalid, mainly as a consequence of the fact that Romania became member of the Council of Europe in 1993. During the adherence negotiations between the Romanian government and Council of Europe representatives, Romania agreed to include some provisions, which assure a possibility for the national minorities to assert their rights. As a result, Article 11 of the Romanian Constitution states that the Romanian state pledges to fulfill as such and in good faith this obligation, as deriving from the treaties it is apart to. Treaties ratified by the Parliament are part of the national legislation by law. Similarly, Article 20 puts forward that constitutional provisions concerning citizens' rights and liberties shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the conventions and other treaties Romania is apart to. Where there are inconsistencies between the conventions and treaties on fundamental human rights Romania is apart to and internal legislation, the international regulations shall take precedence. This means that the Romanian Constitution recognizes the international conventions on human rights, and if there is a contradiction between an international treaty or convention and the Romanian law -including parliamentary law and the Constitution-, than international law has preference.

However, even if Article 13 states that in Romania the only official language is Romanian, the country also recognizes minority languages. Romania became member of the Council of Europe in 1993, and thereby signed and ratified several conventions, the Framework Convention on National Minorities, the European Charter of Regional and Minority Languages, as well as the European Charter of Local Autonomy. These three are the most important juridical instruments, which support the national minorities fighting for the imple-



mentation of the international conventions in Romania. They in fact oblige the Romanian Parliament to ratify these documents and to apply them. The Charter on Regional and Minority Languages allowed the national minorities to use their mother language in their relation with the state. Romania undersigned this document in 1994 and ratified it in 1995. In the parliamentary debates the argument was used by the minorities that in accordance with Article 11 and Article 20 the European Charter of Regional and Minority Languages has preference against Article 13, which obliges the minorities to speak Romanian. We have more pro arguments, first of all, that in the majority of the European Union countries national minorities are recognized, they can use their language in public institutions, as well in the private sphere, and the tradition of Transylvania also has to be considered here.

Transylvania, presently part of Romania, belonged to the Hungarian-Austrian Empire from 1867 until the end of World War I. In this period a tolerant mentality was characteristic to Transylvania, where three nations, the Germans, Hungarians and Romanians lived together. Until 1920 there was no dominant nation and several minorities, but three equal nations. They enjoyed the same political, administrative and other rights. The Romanians spoke Romanian and they could freely use their mother tongue in official situations, as well as the Germans and the Hungarians in the last twenty years of the XIXth and the first decades of the XXth centuries. The Romanians in Transylvania, even if they were a very small national minority, one nation in the empire, had the political right to be represented in the Budapest Parliament from Hungary and they had the right to speak Romanian not only in Transylvania, but also there.

This is the explanation how in organic laws national minorities obtained some rights, which are not provided by the constitution, but they derive from the country's obligation under international treaties. For example, a lot of towns and villages can be seen in Romania having two names, one Romanian, one Hungarian and sometimes also one German. The law prescribes that one may use its mother tongue in public only if composing 20% of the total population. This is an obligation, but in some cases the local councils decided to use the German name as well, even if the number of Germans in that locality is less than 1% of the total population. This is the situation of Oradea / Nagyvárad / Grosswerdein, or that of Sighisoara / Segesvár / Schassburg. The latter was one of the biggest fortresses of the German population in the Middle Ages. On the same basis of the

international conventions, national minorities obtained some rights in the educational field. In 1990 the educational rights were very few and gradually restricted year by year. For instance, when I was a student in the early seventies, in the law school we were ten Hungarians out of sixty students. After five years the communist regime accepted only 7% Hungarians, in the late eighties their number was only one or two students per year. After 1990 we asked first of all to get back our university in Cluj / Kolozsvár / Klausenburg, which was the cultural capital in Transylvania. It has two universities; the Hungarian is the Bolyai, which is more than 400 years old, and which was developed so in the twentieth century that it gathered all Hungarian students from Transylvania. In 1959 Ceausescu himself went to Cluj / Kolozsvár / Klausenburg and merged the Hungarian University with the Romanian one. The number of students at the Romanian Babes University was lower, but from 1959 they became 50-50%, and starting with 1989 the number of Hungarian professors was less than 5%, while that of students less than 7%. The lectures' official language was Romanian. Now we have a so-called multicultural university in Cluj / Kolozsvár / Klausenburg, where the number of faculty, who teaches in Hungarian, increased considerably, although the number of Hungarian students still did not reach 50%, it is now about 25%. In some fields the representation is weaker, in others it is stronger.

I would like to finally reflect on the Council of Europe and European Union minority policies. We had very long debates in the committees of the Parliamentary Assembly of the Council of Europe, how to convince the European Union to accept some of our recommendations. In the Constitution one may not find any provisions concerning the rights of national minorities. The European Court of Human Rights accepted the individual and collective rights of national minorities. And this is why I suggest that on the basis of Recommendation 1201 or on that of the Framework Convention on National Minorities there should be articles included into the EU Constitution to defend the rights of national minorities. It has to be a general principle to preserve national identity, and if such an overall idea is accepted, that forms the root for collective and individual rights for national minorities. ■■

<sup>1</sup> The text is a script of the lecture delivered at the TCC

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# TRANSYLVANIA - Short history of the region

## The German and Hungarian Minority

by Paul Philippi<sup>1</sup>

Let me point out, that my historical essay will not insist so much on historical details and events, but more on structural elements, which may help us to understand the situation we have to face in our days.

The name of the region, Transylvania, derives from the perspective of Hungary: *Terra "ultra silvam"*, the "Land beyond the forest" - Trans-silvania - seen from the point of view of those, who looked at the region from the Pannonic plain towards the East: For to come from the west into that region, surrounded by the Carpathian Mountains, one had to cross large forests north or south of the West Carpathian massif. And so did the Hungarians when slowly taking possession of that region, beginning at about the year 1000 and continuing until about 1200, when finally the whole of Transylvania had become a part of the Kingdom of the Arpadian dynasty. By the way: The name Transylvania in Hungarian is *Erdély*, composed by *erdő* and *elve* - which means approximately the same (*beyond the forest*) and *Erdély* became in the Romanian language *Ardeal*.

However, the history of Transylvania did not begin with the Hungarian take over. The oldest pre-historic proofs of human presence in that region date from the older Stone Age. In historical times at about 500 before Christ we know of *Agathyrsians*, who are said by Herodotus to have lived in that region. According to Herodotus these *Agathyrsians* did not want to be involved in the war of *Dareios* against the *Scythians*, but, if attacked, they were ready to defend their borders (IV, 125) - a political option, which might be considered as inherent to the *genius loci* of the region, which, geographically, is better equipped for defense than as a base for expansion.

Many alternating cultures had populated prehistoric Transylvania before the *Agathyrsians*, others followed them. So *Celtic* tribes and, in the first century before Christ the *Dacians*, a branch of the *Thraces*, whose next relatives, the *Getes* (*Getae*), settled south of the Carpathians on the shores of the Black Sea. These *Dacians* developed mighty kingdoms in the period of Rome's *Julius Cesar* and *Domitianus*, but the Emperor *Traianus* succeeded in subduing them and transforming Dacia, whose central part was Transylvania, into a

Roman province, which, later flourishing for a time to the extent of being known as *Dacia Felix*.

But things did not last. In 275 the Roman emperor *Aurelianus* withdrew the Roman legions and Roman administration south of the Danube. With them went all those who felt they depended on the *pax romana*. For Transylvania began the long age of *national migrations*. (I adopt this term from my dictionary, though I do not agree with it, because, using the term "national", leads to mistaken ideas; for in this period of history we should better avoid the attribute "national". We should, possibly, better speak of the *migration of populations* or *of peoples*). This age starts with the *Goths*, who will be surpassed by the *Huns* and the *Gepides* and others, then by the *Avares* and by *Slavs*. We must certainly not assume that these different populations lived in a strictly successive order in Transylvania. Their settlements often coexisted in various interdependencies. Especially the *Slavs* did not come as conquerors into the region, but rather unobtrusively, under the domination of *Avares* and even of *Gepides*. After the decline of the *Avare* Kingdom in the first decades of the 9<sup>th</sup> century, Transylvania goes through a transition period with aspects of a *Bulgarian* supremacy, while at the end of the century the *Hungarians*, attacked and pursued by *Pechenegues*, transgressed the North-Eastern Carpathian passages from the East, and invaded the Pannonian plain.

From here on the historiography of Transylvania becomes difficult and controversial. The Romanian tradition takes it for granted, that the Romanian Nation was born by the merger of the Dacian population with the Roman settlers within the *Dacia Traiana* between 106 and 275 and even later at the same place, because it seems unlikely that all Latin settlers of the "Felix" Roman province left their homes, as soon as *Aurelianus* withdrew his officials. On the other hand, other historiographic traditions claim the lack of proofs for such Roman permanence north of the Danube. These latter historians suppose, that the Romanians, who can be found in Transylvania during the second millennium, were not remnants of the 17 *Daco-Roman* decades in Transylvania, but that they

rather have to be considered as immigrants from the south of the Danube, coming into Transylvania after the occupation of the region by the Hungarian kings from the house of Árpád.

This controversy is of high historical interest. But it is, in my opinion, of absolutely no political relevance. The history of this dispute, however, claims quite the reverse. The theory of Romanian continuity in Transylvania (continuity: from the Dacians up to the presence) had (and has) in Romania the rank of a national creed, and your patriotism as a Romanian citizen will be highly suspect, if you have doubts with regard to this theory of continuity. The patriotic affirmations of this continuity attained sometimes grotesque dimensions, e.g. when a serious church magazine affirmed in 1981, that the Romanians might have lived in their today's country since about one million or even since two million years. Even Romanian historical research admits that we cannot speak of Romanians earlier than from the 10<sup>th</sup> century onwards. But the controversial question is, where this new nation (better: that new ethnicity) did emerge: south of the Danube or within the old Dacian territory of Transylvania?

The argument of continuity came up during the fight of Romanians (and especially of the Transylvanian Romanians) for their recognition as a political entity - *that* means: as a nation! - and it is easy to understand that in this context continuity was considered to be important in stressing the simple moral pretension of raising that claim for political recognition. But when in 1919 the Peace Conference in Versailles and Trianon had to decide, whether Transylvania should remain a part of Hungary or if it should be attached to Romania, the argument of continuity was of no importance at all. Important was then the incontestable fact that the ethnic Romanians formed the majority in the region. If this majority would not have existed - the argument of continuity would not have persuaded the Allies to unite Transylvania with Romania, even if the theory of Romanian continuity would have been accepted by the whole world. Vice versa: If nobody, not even the Romanians themselves, had believed in the argument of Romanian continuity in Transylvania, but Romanian majority in this region was authentically asserted, the claim for union of that province with Romania had to be fulfilled. And as this argument was valid in 1919, the more it re-mains politically vigorous for our days too.

This is my opinion about the political importance (respectively non-importance) of the Continuity

Theory. We have to keep it in mind, when later we turn to the minority questions of our days. Yet first let us return to the 10<sup>th</sup> century. I want to let you know my personal opinion regarding the historical question of continuity: First I have to admit that I personally did no research work on this problem. But I have the impression, that the dogmatic positions of both sides (the position of the believers in continuity and that of its opponents) that the positions of both sides *have* been and *must* be cut down: There can be no doubt, that a great number of later Romanian inhabitants of Transylvania came into the region after the 12<sup>th</sup> century from outside. But just as much it seems likely, that in some parts of Transylvania (not in all parts) there existed a Romanian (or pre-Romanian, Romano-Slavic) population, called Vlachi or Blachi, when the Hungarians intruded from west. This Romanian or Preromanian population then continued to live in those parts under Hungarian control and in relation to the Hungarian central authority.

So let's return to history. We found Transylvania in the 10<sup>th</sup> century without a central political organization, which we could consider as ruling over the whole region. But there might have been noblemen of different origin, for instance *Pechenegues*, who controlled certain areas within the region. On the other side we see the Arpadian dynasty consolidating the Hungarian kingdom in the Pannonic lowland, and, after 1000, slowly extending its influence into Transylvania from North-West to South-East in a well established system of progression, advancing its frontier-zones (called *gyepü* or *indagines*) every approximately forty years by about 50 to 60 kilometers. It would lead us too far if we were to describe the interesting and sophisticated *gyepü defense system*. But it is important to know, that the *gyepü* represented along the frontiers a zone of about 50 kilometer width, which, as long as it served as a defense zone, was a *terra deserta et inhabitata* (a waste and non inhabited territory). But once abandoned as defense zone, the former *gyepü* became *land of the crown*, ready to be colonized by the king, who ordinarily gave it to noblemen of his choice. The preferred population to watch the *gyepü* zones was the *Szekler*, a tribe who accompanied the Hungarian tribes on their way to the West. The *Szekler* lived as warrior clans, ready to be placed wherever they were sent by the king's mandate, and, of course, wherever they received the king's reward (by certain rights). In the process of taking possession of Transylvania by the Arpadian dynasty the *Szekler* played a key role. But it might be

even more important for us to note, that the Szekler community had its particular inner structure, different from that of the Hungarian tribes. This fact will later on turn them into a second “nation”, when Transylvania became a Principality of its own in the 16<sup>th</sup> century.

We now have to interject, that the evolution of the Arpadian kingdom did not happen without dissensions inside the leading gentry. Steven the Saint led the Hungarian tribes at about 1000 to Christianity, joining Rome’s western Church. That was not self-evident from the start. Some Hungarians under chief *Gyula* (the second rank after the king!) seemed to have had other options, and so one part of the Hungarians invaded Transylvania separately and not according to the Arpadian strategy (which tended from North-West to South-East), but they entered from the South-West along the river Maros or Mures. This wing of Hungarians showed strong tendencies to-wards the Eastern Church of Constantinople - and in this southern part of Transylvania, where they had entered, we soon will find many traces of a local Romanian gentry, which later on will merge into the Hungarian gentry, especially within the 14<sup>th</sup> century, when, after the extinction of the Arpadians, the Western dynasty of the Anjou kings came to rule over Hungary. Regarding the 11<sup>th</sup> and 12<sup>th</sup> century it might therefore be important to remember, that the disloyal Gyula-Hungarians entered a part of Transylvania, where non-Arpadian (non-Hungarian!) elements had already existed. It is true that the Arpadians finally defeated Gyula and his followers. But the south-western part of Transylvania remained an instable territory even for the winner, so that the above-mentioned Szekler had to stand as guards for a long period in the region around the bishopric of Alba, protecting here the Arpadian-occupied region against possible troublemakers from the South.

In the middle of the 12<sup>th</sup> century the gyeprü-policy of the Arpadians changed: When Géza II displaced the inner Transylvanian border towards the mountains, south of the Olt river, he donated the “uninhabited” crown land (north of the river Olt) not only to loyal noblemen, as he formerly used to do, but he purposefully called in settlers from western countries, not only with the purpose of letting them protect the territory against external foes, but even more (1) to strengthen the economic power of the crown by economically advanced farmers and craftsmen, and (2) to use them “*ad retinendam coronam*” (that means: as faithful sustainers of the crown), eventually against inner opponents.

Calling these *hospites* (as the settlers were called) was doubtless a step towards “modernization” of the inner structure of the Kingdom. But at the same time this call restored (or fell back to) old principles set up by Steven the Saint (997-1038), who had recommended to his son, to invite *hospites* into his land, for: a kingdom, he declared, of only one single language and with one single sort of customs is weak and frail, while a plurality of languages and customs brings more experiences - and contributes thus to the welfare of the country and to the glory of the kingdom.

Now let us explain as briefly as possible what is meant by *hospites*. The usual Latin translation “*guests*” easily leads to mistakes. One understands the notion better if we translate *hospites* as “*the invited ones*”, because it is clearly said in the documents, that the *hospites* are “*vocati*”, “invited” to settle in the region, which was given to them; they did not come by their own initiative, not as intruders. They are invited to live definitely in these territories according to their own customs (others than those of the Hungarians or of the Szekler). They obtained royal guarantees, that they could elect freely (and out of their midst) their local (and later even their regional) superiors, named *judges*. Thus the *hospites* had from the very beginning the status of politically constituted free communities, remarkably different from the structure of the traditional Hungarian society. Even more remarkable are the ecclesiastic rights, granted by the king to the *hospites*: In an era, when the Roman church was about to centralize its whole organization by structuring it explicitly from the Pope downwards, the Transylvanian *hospites* were given the right (and it is likely that they had claimed this right as a condition to accept the king’s invitation to settle), they were given the right to elect freely their priests, to present the elected ones to the bishop for ordination, to pay to them (not to the bishop!) the tithe, and to be responsible to him (to the elected local parish priest) in all matters of ecclesiastical law. These rights represent an exception from the worldwide Canon Law of the Roman Church. The communities of *hospites* fought continually and toughly for the maintenance, or rather for the extension of these exceptional rights. The fight for this ecclesiastic “democracy” (if we may use this term for the will, to build the church from the basic congregational units), this fight was, probably, one of the motivations for the *hospites*-communities to join the Lutheran Reformation in the 16<sup>th</sup> century, because it had not been easy to assure these exceptional privileges throughout the four centuries from 1150 to 1550.

Well, the first written proof mentioning these rights or *privileges* or liberties (*libertates*) of the settlers dates back to 1224, when king Andrew II issued to his *hospites teutonici* a document they later called *the Golden Letter of Freedoms*. But King Andrew says in this document, the “Andrea-num”, that the regulations he gives the hospites are nothing but the renewal of those *libertates*, which were given to them by his grandfather Géza (1141-1161), who had invited the hospites to immigrate.

Anyhow, for the understanding of these privileges we have to add two more points: The one point concerns the general understanding of “privileges” in the middle ages: “Privilege” does not mean *advantage* vis-à-vis others within the same administrative realm. It means (and that might be considered a very important advantage, indeed,) to possess a documented, a guaranteed legal basis for a communitarian existence, a statutory basis which includes, beside rights and liberties, duties and liabilities of the privileged as well, the latter mainly in the area of military assistance and of financial contributions. And even these duties and liabilities with regard to the king are extensively specified in the “Andreanum” of 1224. The second point concerns the collective status of these western hospites: They were installed as a political unity (*unus sit populus*, declares the Andrea-num) with a remarkable space of self-administration - under the supervision of the king’s authority.

This is now the third particular unit of political Transylvania: We repeat: the north-western parts of the region, occupied according to the Arpadian strategy of extension, were organized in the administrative form of counties (*comitatus*). The direct head of the counties was a sort of Vice king, the Vaivoda of Transylvania. A second unit was the Szekler, organized in seats (*sedes*), and led by the count of the Szekler. And as a third unit there now developed the seats of the western *hospites*, which were led by a Supreme Judge of the king (*iudex regius*), who, in the first centuries, was nominated by the king, but after 1377 was elected by the hospites themselves. These *hospites* incidentally in time received the name of Saxons (*Saxones*), though they came mainly from the German Rhineland, but also from Flanders and from the French speaking Wallonia and from other parts of German territories. And as the *natio Saxonica* (the Saxon nation), surnamed in later centuries even the “*robur Transylvaniae*” (Transylvania’s strength), they became one of the three pillars of Transylvanian self-reliance,. The oldest administrative unit of the Saxons

were, by the way, the *septem sedes* (the seven seats) - and that might be the origin of the Latin surname *septem castra*, which became Transylvania’s German denomination *Siebenbürgen*.

It is now important to realize, that each of these three Transylvanian sub-units (the counties/*comitatus*, the seats of Szekler and the seats of the Saxons) were represented by their nobility. In medieval times our type of democracy did not exist, where every recognized inhabitant had one vote. (In our days we would say: not every *citizen* had one vote; but the term “citizen” had in the medieval society a more specific meaning, so that we cautiously say: not every *recognized inhabitant*). The political vote was due only to noblemen. Only they could be political partners of the ruling central authority, the king. That is true not only in Transylvania. But in Transylvania it had very special consequences:

So there existed on the one hand an old Hungarian and Szekler gentry and nobility, and it was at first this class which was the political agent in Hungary’s Transylvania. Up to king Louis of Anjou (1342-1387) Hungary’s nobility was as pluralistic as the ethnic appurtenance of its population. There was a gentry of Hungarian type, another one of Croatian, of Pechenegian, of Valachian, and of some other types. But since Louis the nobility class became more and more unified Hungarian *nobility*. - In the society of the Saxon hospites there existed rural gentry too. Its members had been the agents of the immigration treks. And they obviously had been those, who had acted as the agents who negotiated the privileges for the settlers. But in the 14<sup>th</sup> century, mainly during the time of the Anjou kings (1308 - 1387), the Saxons became the ones to build the cities in Transylvania. And while their rural gentry tended to merge with the unified Hungarian nobility, the Saxon city society developed, like western European Cities too, beside guilds of crafts, a class of patricians as well, whose members automatically became the spokesmen of their entire communities. This might be underlined as a particularity of the Saxon subunit of Transylvania, when we compare it with the Hungarian, or with the Szekler subunit, whose peasant co-nationals were the subject to their noblemen; and this was the fact - and had even more tragic consequences - within the Valachian or (as we later have to say) within the Romanian population: The gentry classes as such behaved as a nation (independent of the ethnic nature of each one’s family), while the subjects to the gentry class’ families were not part of the nation, but its



appurtenances (again independent of their ethnic nature).

And pointing at these circumstances, we forecast already a problem, which in modern times will turn into the problem of minorities: Independently of our opinion concerning Romanian continuity, we have to learn, that in the Southern part of Transylvania (there, where the Gulag-intruders entered into the region at about 1000), but in other parts too (for instance in the far North, in the Murmurs county), there existed Romanian or Salvo-Romanian Communities, led by a tribal gentry. In spite of lacking documents for the oldest times it can be assumed, that the Arcadian policy came to agreements with this Walachia gentry, as it did with other gentries too. It is true, that some representatives of the Walachia gentry avoided Hungarian domination, evading to the other side of the mountains. These representatives became the founders of the later Romanian principalities Walachia and Moldavia. Some relations of the later centuries indicate the lasting connections between parts of Transylvania and the transcarpathian Principalities. But those members of the Valachian gentry, who remained in Transylvania, became partners of the Hungarian kingdom in one way or another - and that made them to be recognized by others and to consider themselves as Hungarian noblemen. Yet the ethnic Romanian subjects did not profit in gaining that way a class of spokesmen. The opposite is true: By quitting the cohesion with their fellow co-nationals, the Romanian gentry left the Romanian communities without any spokesmen, and so the Romanians in Transylvania, although numerous, failed to enter into Transylvania's historical structure as its fourth political subunit.

(The later ethnocentric historiography used to classify the absence of a Romanian nation in Transylvania's political structure as an aimed discrimination of this ethnic group. But we have to remember once again, that political representation at that time required the existence of spokesmen; yet these had to be qualified as such by nobility or by being patricians. The Saxons had had the advantage, not only of compensating the loss of their rural gentry by patricians, but even more, by this substitution of the gentry they secured for themselves a class of spokesmen, who considered themselves part of the entire Saxon community, representing not only their own interests, but the interests of non patricians too: the interests of craftsmen and of the free Saxon peasants as well. So the Saxons, between the 14<sup>th</sup> and the 17<sup>th</sup> century,

became a more coherent community than were the Hungarians and the Romanians - and thus they lived somehow nearer to a democratic inner structure. Their factual coherence became legally confirmed, when king Matthew in 1485 recognized the *Universitas Saxonum*, the "totality of the Saxons", as the unique political representation of the four existing administrative districts of Saxons (the Seven Seats, the "Two Seats", the districts of Brasov / Brassó / Kronstadt and Bistrita / Beszterce / Bistritz). A propos "totality": peaking in ethnic terms, there existed, unfree, subjected Saxons too. More than one fourth of ethnic Saxons had been hired by noblemen to settle in the 13<sup>th</sup> and 14<sup>th</sup> century on noblemen's territories. Thus they became not free subjects of Hungarian landowners. They did not belong to the political unit (*Universitas*) of the Saxons. In political terms they were not Saxons but Hungarians, in the same way as the ethnic Romanian subjects belonged politically to the *Natio Hungarica*.)

In the 15<sup>th</sup> century there occurred major changes in the history of our region: The first major event was the appearance of the Turks. These attacked Transylvania for the first time in 1396, then in 1420, and from now on their military invasions became for some three hundred years, a permanent ritual with many raids, sieges, pillages and battles. The crisis of this permanent danger caused inner crisis. Not free, subjected peasants, the so called *iobaghes*, in the years 1437 and 1459 tried an insurrection. - The afflicted ones were in the case of Turkish attacks mainly the Saxons in South-Transylvania; in the case of the insurrections it was the land owning nobility. In this situation an alliance came about of the three political subunits of the region. After the insurrection of the peasants the nobility was interested in obtaining the assistance of the Saxons (who had the fortified cities and forges of armament). The Saxons, permanently menaced by the Turks, were interested in being ensured of the nobility's help. That way in 1437, 1438 and 1459 the above-mentioned three political subunits of Transylvania forged three alliances, named the "*Brotherly Unions*" (*fraternae uniones* or *uniones trium nationum*), by which they pledged to help one another when ever one part would be attacked - whether by the subjected peasants, or by the Turks. And this constellation of interests created a third and new aspect for Transylvania's political evolution: Though underlining their loyalty vis-à-vis the king, the three sub-units assured to one another, that, if the royalty should curtail one of them in its privileges, the other two partners would come to

defend the third one against the king.

This was a clear signal showing, that the Transylvanian part of Hungary had gained a self-confidence of its own. And when in the 16<sup>th</sup> century the Turkish offensive had become stronger and stronger, after the Hungarian defeat of Mohács in 1526 and after the occupation of Budapest in 1541 the three political partners and subunits of our region were prepared to act in separate responsibility, electing at first a Hungarian king, whose title was later modified into *prince* of Transylvania. Who were these electors? They were the above named three partners (Hungarian nobility, Szekler and Saxons). They acted together as a diet (a kind of parliament - not yet a democratic one), each of the partners in it bearing the name of a *nation*. Thus originated one new state composed of "three nations" (*tres nationes*). Each "nation" bore its own seal, and each law, voted by the Diet, became valid if it was sealed by the three seals. This kind of Transylvanian Parliament remained in function till 1867, when Transylvania became anew a part of Hungary. In the changing eras between 1542 and 1867 the Diet of course had to go through very different experiences. Until 1691, when the Austrian Empire gained the supremacy over the region, the Transylvanian Principality tried a policy of balance between the Habsburg monarchy in the West and the Turkish Sultan in South East - with many successes and with even more failures. The two collections of voted laws, the *Approbatæ et Compilatæ constitutiones* of 1653 and 1669, served as a sort of constitution of the Principality. Then, between 1691 and 1848 the Diet tried, mainly in vain, to uphold the achievements of Transylvania's 150 years quasi-autonomy. (We will immediately say something about these achievements.) Then, from 1848 to 1867 the direct administration of the Vienna Court became more and more obvious, and under the direct domination of Budapest, after 1867, Transylvania's autonomy came to an end.

The time between the battle of Mohács (1526) and the beginning of Austrian domination (1691) gave Transylvania an unmistakable profile of its own, so that Hungarian poetry could name that period "Transylvania's golden age" (*Erdély arany kora*). The Princes of the country were elected out of the Nobility - and it is not necessary to add, that it was Hungarian nobility, because-se no other nobility did exist. But it is necessary to add, that among those noblemen were descendents of the Romanian gentry too, even if they did not consider themselves to be Romanians.

Some of the Transylvanian Princes developed great ambitions, striving after the crown of Poland, like Stephan Báthori (who succeeded) and George Rákóczi (who did not), or trying to subdue the extra Carpathian Romanian Principalities under their supremacy (so Gabriel Báthori and George Rákóczi), or to play a role on the side of the Protestant powers in the European war of thirty years (so Gabriel Bethlen, the most important of the Princes). However, all these ambitions of external policy were not at all characteristic for the Principality's profile.

Of much higher importance became the religious legislation of the Principality: In the early Forties of the 16<sup>th</sup> century the Saxon communities passed over to Lutheranism - in a very special form indeed: Until 1555 they were not fully aware, that they had separated themselves by this decision from the Catholic Church. At the end of the 50ies and at the beginning of the 60ies most of the Transylvanian Hungarians passed over to the Calvinistic Church. Yet at the end of the 60ies and with the beginning of the 70ies a great deal of Hungarian Calvinists passed over to the Unitarian or Antitrinitarian Church - a phenomenon which remained for a long period of time a Transylvanian singularity. You must remember that the English law f.i. till 1813 provided for Antitrinitarians to be beheaded.

So Transylvania could boast itself to have been the first European state, where, in the 16th century a certain religious freedom became established by political constitution, and this freedom was never again retracted. Four Churches were the "received" ones (their title: *Religiones receptæ*: the Reformed [Calvinistic] Church, the Evangelic [Lutheran] Church, the Roman-Catholic Church, the Unitarian Church) and a fifth one - the Eastern Orthodox Church of the Romanian subjects - was "tolerated" (*religio tolerata*). Here, again, easily great discussions start, whether this status of the Orthodox, to be "only" tolerated, meant - compared with the other churches - discrimination. I am prepared for a more detailed argumentation in this matter. But let me try to resume my explanation now by the following statement: 1) In view of the permanent Turkish threat the Religious "freedom" had become necessary as a compromise among the political "nations", to avoid internal battles. The Orthodox subjects a) did not belong to the political nations (so that a compromise with them was not necessary), b) they had not changed the status in which they had lived already all the centuries before, and therefore it was not necessary to redefine their

role. c) As the diet in the later 70ies of the 16th century became aware, that in the constitutional system there was lacking a definition of the religion of the numerous Orthodox believers, one perceived that the Orthodox (who existed as long as one could remember) should remain what they always had been, namely tolerated. 2) The toleration proclaimed 1653 in Cromwell's England, and the toleration laws of Emperor Joseph II of Austria (1781), both in the world's historiography highly appreciated as progressive, were both more restrictive than the Transylvanian legislation of 1568. And since we have to measure historical decisions against the standards of their age, when judging the importance and the level of religious freedom in Transylvania's 16<sup>th</sup> century, we cannot apply the scale of demands, the 19<sup>th</sup> and 20<sup>th</sup> century has risen, but the demands, valid in Europe's 16<sup>th</sup> century. And in this context Transylvania's religious legislation de-serves our respect, especially for the fact, that the practice of peaceful neighborhood and mutual respect of the different historical Churches became an essential signature of community life in Transylvania up to our days.

So we note for the 16<sup>th</sup> and 17<sup>th</sup> century: Three political "nations" in one parliament - preformed in the midst of the 15<sup>th</sup> century by the *uniones trium nationum*, these unions creating a sense of Transylvanian togetherness within the greater Hungarian kingdom. - One tolerated and four free religions in one political system. Transylvania had developed, at the latest since the 11<sup>th</sup> century, an inclination to plurality within a comprehending political unity. When the United States in the 18<sup>th</sup> century stated by their coat of arms to become "*e pluribus unum*" - than for the Transylvanian coat of arms an inverse slogan could be formulated: We want to be *unum* - but remaining *unum e pluribus*: Unity by mutual recognition of diversity.

Having said this, it would be romantic - thinking to state, that the social and political relations in Transylvania had been ideal in some or even in all respects. As we have spoken of the insurrections of the subjected peasants, we could report on many other conflicts e.g. inside the Diet or with the Princes, and I myself, as a member of the Saxon community, could fill a whole evening by telling you, how difficult it was for the Saxon group of non-noblemen to assert its position in the Diet among an arrogant class of aristocrats. A document of 1591 reproduces the quasi pre-democratic speech of the Saxon spokesman in the Diet, when he, directed against the aristocrats, defended the right of the Saxon "shoemakers and tailors" to have

deputies in the country's parliament - a right which obviously had been contested by the nobles. But we had indeed social insurrections inside the Saxon community too, and the Szeklers, restricted in their traditional rights, revolted several times. And finally, in the time of the enlightened Austrian emperor Joseph II the Romanians of the West-Carpathian massif undertook a rebellion, severely oppressed by the army.

But the greater conflicts, which generated major changes in the Transylvanian society, came up by the appearance of the ethnic-national ideas in the 18th century. These ideas overlapped and overtook the old setup of the established "nations", as they existed in the Diet. It started, when the Austrian centralism neglected the customary political order, and when protestant anger came up against the Habsburg policy to favor the Catholic Church in an illegitimate way. Furthermore, the pride of the Hungarian gentry detected specific Hungarian values and tried to reconfirm them against the Vienna-supremacy - which, as such, was considered to be a "German" one. Hungarian versus German! That was finally the case, when Joseph II, who had absolutely no ethnic-national ambitions, cancelled some basic traditional institutions in Hungary's and Transylvania's administration, introducing (e.g.) German as the only official language of the entire state. He did it for reasons of modernization and simplification. (One must know that in Transylvania Latin had remained the official language for a long time, even as language of parliamentary debates.) Joseph finally retracted his attempt on his deathbed, but the sting to national irritability lasted.

Just as grave consequences - but in quite another way - had the Austrian attempt to convert the Romanian ethnics to the Roman Church, establishing successfully with a great number of clergymen, a Union of Orthodox Church with the Catholic hierarchy. Studying in Vienna and Rome, the young students of this *Uniate Church* discovered the Latin origins of their language. So they became aware, that they could consider themselves as the descendants of famous and noble ancestors. In the "Transylvanian School" (the *Școala Ardeleană*) they constructed a new national self-image of the Romanians as "sons of the Roman emperor Traian" - and in this context they unfolded a new perception of their history in Transylvania as the oldest inhabitants - and raised, consequently, legitimate pretensions in (or even for!) Transylvania. The *Supplex Libellus Valachorum* (the submissive booklet of the Romanians, 1791) claimed he recognition of the Romanians as a

## Fourth Nation in Transylvania.

Looking back from our times to 1791 we might regret, that the old three Transylvanian “nations” did not react positively to that motion of the Romanians. But judging historically we have to admit, that here collided two different understandings of the notion of nation: The *statutory* nation as a community of common and equal rights on one hand, and on the other hand the ethnic nation-on, based on common language, on the same blood or even race. The claim for the latter understanding penetrated the entire era, and it was to determine the future development of Transylvania’s history, as well as the rise of the political minority phenomenon.

Parallel to the new national feelings of the Hungarian gentry, the Saxons, in the early 19<sup>th</sup> century, started on their part, to consider themselves more and more emphatically as *Germans* - that means as a branch of the large community of German speaking people, as a component of the German *Cultural Nation* (Kulturnation). (We must keep in mind, that in the era of Napoleon a German state didn’t yet exist. The Saxon intellectuals knew from their university studies a great number of German political sub-units - including Austria and the German speaking Swiss *Kantons*, so that this “Germanic” option of Saxons had no political aim. It did not hurt their loyalty as citizens of Transylvania or of Austria or of Hungary, but it gave them a (senti)mental support, to belong to a greater cultural unit (greater than the Hungarians f.i!), to be not left alone in the newly appeared struggle for an assertion in a now required ethnic identity. In other words: They were, at that time, not at all interested in political Germany, but in the great German culture, in the “German spirit” of which they considered themselves to be a part). Their constitutional status as a confirmed Transylvanian nation seemed no longer to safeguard their future. - In the same trend the Szekler from now on were treated self evidently as Hungarians, not any more as a political Transylvanian unit of its own. Their linguistic identity with the Hungarians became more important than their specific constitutional tradition. And in this emotionally new constellation Transylvania entered in the revolutionary year 1848.

In Paris, Berlin and even in Vienna the revolution of 1848 had social and constitutional aspects. In Hungary, beside constitutional demands, ethnic-national aspects prevailed. And in Transylvania the key question was that of: union with Hungary or not?! When the

Saxon deputies came to Cluj / Kolozsvár / Klausenburg, to vote for or against that union, a Hungarian crowd gathered in front of their accommodation, crying: *Únió vagy halál* - you have to choose between *Union* (with Hungary) or *death*. As a matter of fact, the Saxons, (still a statutory “nation”, but considering themselves as a coherent ethnic German group as well) and the Romanians (not yet recognized as a nation, but perceiving themselves ethnically the more as such a nation) both fought against the union with Hungary. They wanted to remain under Austria’s direct protection - in spite of the many deceptions they had suffered from Vienna (no less than the Hungarians).

The events of the Hungarian Revolution 1848/49 are well known. After preliminary successes of the revolutionary Army, the Austrian reaction seemed after all victorious. Vienna tried to exercise in the 1850-ies and in the early 60-ies a renewal of its direct domination in Transylvania. Still in 1848 the Saxons had drawn some cautious conclusions with regard to the new age they were about to enter, extending the right of vote for their political corporations (within the *Universitas Nationis*) to the Romanians who lived in the territory of Saxon self administration. The Transylvanian Diet of 1863 decided (in the absence of the Hungarian deputies!) likewise to include the Romanians - as individuals - into the political structures of the Principality. But none of these decisions had real consequences, first because the decisions were not ratified by the Vienna go-varmint, and second because the so called *Austrian-Hungarian Compromise* of 1867 called all these decisions null and void. External defeats of Austria and inner tensions compelled the Court of Habsburg to yield to the Hungarian demands for a relatively independent Great-Hungarian state, including Transylvania.

Now in this newly created Great-Hungary lived fewer than 50% ethnic Hungarians. Therefore all the Hungarian governments, succeeding after 1867, tried to create an artificial Hungarian majority by “magyarizing” as many people of other ethnic groups as possible, urging them to enter schools teaching exclusive in Hungarian mother-language, to change their names - first and last names - in an Hungarian way, ordering, that all localities had to be named exclusively with a Hungarian name (which often had to be invented for this purpose), etc. etc.. In 1876 the territory of Saxon self administration (handed over to the Saxons “for eternal times” by the Hungarian king in the 13th century) was simply dissolved. The new

administrative units in the region were redesigned with the lucid purpose of somehow ensuring a Hungarian majority in each county. Such measures embittered not only, but particularly the Saxons, whose characteristic feature was, according to the English writer Charles Boner (1863), “their sense for self government”. Here lies one major reason for the growing tendency among the Saxons to find support mainly in a “Germanic” self confidence, and less in emphasizing the old constitutional rights within the Transylvanian context. - The Romanians, on the other side, whose rising national self confidence claimed for additional new rights, felt disadvantaged in many respects and presented in 1892 a “memorandum” to the emperor in Vienna, who was at the same time the king of Hungary. But the fact, that they had addressed their memoir to the Austrian emperor and not to the Hungarian king was reason enough, to arrest the authors of the memorandum, and they had to undergo a long lasting, severe trial. No wonder, that the desire and the orientation of Transylvanian Romanians were more and more directed to the young and successful kingdom of Romania on the other side of the Carpathian Mountains.

I think we should note at this point, that we can not speak of a genuine minority question until this very period after 1867. In former periods political problems were not judged primarily on the basis of a census, counting the number of possible voters. It is only since this time, when the number of possible voters became decisive, that we can properly speak of a minority-question. Until around 1800 the question was on what legitimate right a community could base its claims. From now on the number of possible voters decided. And it may be worthwhile to note, that in the classical democratic doctrine, as it was developed in America and in France, ethnic minorities are not foreseen or provided for. Democratic majorities and minorities, according to the doctrine, may legitimately change from election to election, year after year, as fast as the opinions and preferences of the electorate change. Yet ethnic constellations in a historical region don't change from election to election. And if the relation of ethnic majority and minority becomes the basis of territorial decisions and of the belonging of each region to one state or another, than the solution of minority questions is born as a new problem for political solutions. It is a task not at least for the definition of “nation”: Should a nation and its state be defined only by a standing ethnic majority, so that all the other groups (whether or not they are equally (or

even better!) qualified to claim their historical rights and their political experience) can be simply neglected in the definition of that which is “national”? That became the crucial question in Hungary after 1867 - as it was to become the new reality after 1919 in Romania.

In 1914 Transylvania, still preoccupied with its ethnically motivated tensions, as sketched above, entered into World War I. The members of all its ethnic groups took part as soldiers of the Austrian-Hungarian Army or of the Honvéd (Hungarian) Army. For a time some rivalries seemed forgotten. Hungarians and Saxons indeed were shocked when in 1916 Romanian troops intruded into the region, making clear Romania's pretension for this part of Hungary; and both, Saxons as well as Hungarians, felt rescued, when the German army pushed the Romanian troops back. But in the end the war was lost, and all the Romanians, who lived on Hungarian territories, proclaimed at Alba Iulia / Gyulafehérvár / Karlsburg, in the 1.12.1918, the union with the Transcarpathian kingdom. In their proclamation they promised to all ethnic groups living in Transylvania and in the Banat “complete national freedom”. “Each people (i.e.: each ethnic nation) will receive instruction, administration and jurisdiction in its own language by persons from its own midst”. And as it was clear, that the Romanians were the absolute majority in Transylvania and in the Banat, there could be no doubt, that the Western Allies would acknowledge Romania's claim for these Hungarian territories.

In this situation, in January 1919 the Saxon “People's Council” decided, hesitating indeed and unhappy, but finally unequivocally, to join the Romanian declaration of Alba Iulia in uniting Transylvania with the Romanian kingdom - on the basis of the Alba Iulia promise. (The Saxons, since about 1792, already experienced already the difficulties, which arose in a minority-position: for in 1792 the Diet had first changed the voting procedure: Till 1792 the three nations had one vote each, irrespective of the number of individuals represented. Since that date, however, the number of votes was decisive - and so the Saxon's weight in the Diet had sunk from one third to about one tenth - in favor of the ethnic Hungarians: A hard positions for the minority vis-à-vis an aggressive ethnic nationalism of about nine tenths!) When now, in 1919, the union with Romania became anyway a historical necessity, it seemed better for the Saxon minority to take the Alba Iulia promises as a positive chance, considering these promises to be a proof, that the Romanian neighbors had learned from the failures of the Hungarian “na-

tionality"-policy after 1867, being determined, to make things better from now on. Similarly the ethnic Germans of the Banat, of Russian Bessarabia and, first of all, of the Austrian Bukowina declared their option for a Greater Romania.

The new territories, given to Romania by the Peace Treaty of Trianon enlarged the extra Carpathian country by about two thirds. The administrative skills of Bucharest were, unquestionably much less developed than those of the old Austrian or Hungarian administration. But the Bucharest officials now flooded the region. They applied the Agrarian Reform in Transylvania, which in 1917 had been promised to the faltering Romanian troops to strengthen their morale; and what in the old Romanian provinces was done in the name of more social justice, was done in Transylvania mainly to expropriate Hungarian and Saxon property in favor of adjudging it to new Romanian owners. The conversion of the old currency of *crowns* to the new one of *lei* was executed under extremely disadvantageous conditions for the Transylvanians (and here those with the greater savings suffered the biggest losses). And finally, the Alba Iulia promises were not confirmed by the Bucharest government. In 1923 the Parliament adopted a Constitution, in which Romania was declared to be a *Unitarian National State* - understanding the term "national" in an explicit ethnic sense. The deputies of Hungarians and Saxons had tried to modify the constitutional project, even quoting arguments, formerly used by Romanian deputies in the Budapest Parliament (between 1867 and 1914) - but they had now no chance to be accepted. So Greater Romania became an explicitly mono-national state - in spite of the fact, that, even ten years later, in the census of 1930, only a percentage of 71,8 declared themselves ethnic Romanians (while at that time Switzerland, f.i., with 75% German speaking citizens was an explicitly pluralistic, multinational confederation with four national languages). The administrative system of Romania was (and remains until today) a centralized one, neglecting regional traditions and differences.

Useless to say, that the three historical "nations" of Transylvania (which were meanwhile reduced to only two, because, according to the ethnic census the Szekler counted now as Hungarians, whilst the Saxons were counted as Germans, together with all the other German groups of Greater Romania) - the two minority-"nationalities" were not satisfied by the new situation. Hungarians (including the Szekler) living at

that time in the historic region of Transylvania numbered 828.144, Saxons 240.049, Gypsies 69.324, Jews 65.324, other nationalities 15.854 - and Romanians 1.625.837 - according to the census of 1930. And since the 1.218.695 non-Romanian ethnics did not count as groups of political value, equally weighing with the Romanian State's-Nation, their status was indeed solely defined by their minor number - that means as minorities. And as such they found themselves not fully accepted, but rather tolerated. (This phenomenon became even more pronounced after World War II, when Romanian publications underlined again and again that the presence of historic minorities in the country was evidence for the Romanian nation's broadminded hospitality: The Romanians being the hosts of guests, the guests had to be grateful for being accepted in their host's home.) -

In December 1919 Romania had signed the Paris Treaty for Protection of Minorities. Under the influence of American and French politicians, this treaty treated the notion of *minority* very deliberately in a restrictive individualistic understanding, avoiding all collective rights for the "persons who belonged" to such ethnic minorities. Article 11 of this treaty, however, stated (as a worldwide exception!) collective autonomy for Szekler and Saxons in the cultural realm. The treaty, although signed by the Bucharest government, never was applied in Greater Romania.

Between the two wars it was apparently difficult for the Hungarians to accept their new role as a mere minority. For one thousand years Transylvania in one way or another was part of Hungarian self assurance. In the last 50 years (since 1867) they consciously were the ruling class in the country. Trianon-Hungary itself didn't accept the new situation, proclaiming all the time its "*nem, nem soha*" (*no, no* [we will] never accept the loss of Transylvania). And so the Transylvanian Hungarians complained internationally and in many attempts the treatment they experienced under Romanian domination. On the other hand there were cautious attempts of Hungarian and Saxon intellectuals (joined by a few Romanians as well) to define something like a "Transylvanian soul" as a factor to unite all the historical Transylvanian communities within the embracing larger unit of Greater Romania. But they had no success. This was the general mood at the beginning of World War II, when the political Decree of Vienna divided Transylvania into two parts (by the way for the first time in its history): Trying to apply ethnic criteria, one third (the North-West and the south-eastern Szekler region) was given

to Hungary, two thirds remained with Romania - and none of either antagonists was satisfied. Both felt deeply offended in their national rights and hurt in their national feelings.

The Saxons also felt humiliated after the Peace-Treaty of Trianon. Their leaders had voted in 1919 for the Union with Romania, putting their hope in a new partnership with their Romanian neighbors. Now none of the Alba Iulia promises became tangible reality. In the Agrarian Reform Saxons had lost much private and almost all their common properties, which formerly had been the material and social basis for maintaining their very old and most comprehensive school system: yet Bucharest did not pay the promised funds for the Saxon schools. To maintain their schools, the members of the Lutheran Church had to pay more Church-contribution than they paid taxes to the state. That caused motions of discontent, directed against the leaders, who had voted for the Union with Romania. When the economic crisis of the late Twenties came up, the discontent became nearly unsupportable. The issues to overcome the crisis were more and more influenced by sympathies for the German Reich, which, under Nazi leadership, seemed to overcome the misery of Versailles. When finally Romania under Antonescu entered into an alliance with Hitler-Germany, Nazi leaders of the Romanian ethnic Germans were empowered to take charge of all the Ethnic Germans in Romania - and the old elite of conservative Saxon leaders was not powerful enough to withstand this evolution.

In this way an avalanche of tragic events started for this German community: More than 60.000 young ethnic Germans from Banat, from Transylvania and from the Satu Mare-county were transferred from the Romanian into the "German Army SS" - and after the end of the war only a very few of them could return to Romania. The majority of them remained in Western countries, mostly in Germany. In January 1945 about 70.000 ethnic Germans (men from 17 to 45 years and women from 18 to 30) were arrested for forced labor in the Soviet Union under most cruel conditions. About 15% of them died in those Soviet camps. Many of them, when invalid, were transported to Germany, not in their home country Romania. In 1945 Romania's ethnic Germans lost their civil rights collectively and were almost totally expropriated, losing that way houses and livestock and fields. Many of them had to quit their houses. Their schools (in Transylvania from 1945 to 1948 led again by the Lutheran Church) became "nationalized" - in the sense of being from now on

schools of the communist Romanian state. The rich life of cultural events and societies was either forbidden or likewise subordinated to the communist party or centralized as state organizations. Some of these activities succeeded to survive, camouflaged as state- or as Church activities the basic civil rights were given back toward the end of the 1940-ies. The surviving prisoners from Russia also came back in December 1949. But in spite of these facts the despair for a future life was increasing and the attempts to emigrate became the permanent secret topic of conversation among the ethnic Germans. Some of those leaders, who in the 1930-ies had tried to oppose the rise of Nazism, had meanwhile disappeared in communist prisons, some others tried in vain to rouse anew the spirits of the Saxon community in a kind of spiritual fortress of faith. Yet those Saxons, who already lived in western countries, were encouraged by their governments to canvass insistently for higher rates of emigration from Romania. Thus Germany paid the Ceausescu regime prices for each German emigrant. In this way emigration seemed irrevocable, and when the tide finally turned in 1989, an avalanche of Saxon emigrants diminished the Saxon minority to about 20.000 in our days.

So much for the very special situation of the German, especially the Saxon minority. No doubt, the other communities, even all citizens of Romania, had to suffer under the communist regime. The Hungarian minority, however, seemed to have a privileged situation in the years following 1945. On the one hand the Soviets had agreed to give them an autonomous region in East Transylvania. On the other hand relatively many ethnic Hungarians were in the years before 1945 among the very few members of the Communist Party. So the ethnic Hungarians were proportionally well represented in the staff positions of early Communist Romania. But such "advantages" disappeared at the very latest when Ceausescu came to power. He installed a very special way of combining rigorous communist doctrine with a primitive nationalistic ideology, raising many mythological or poetic elements of a long-past romantic national historiography (cultivated formerly on primary school-book level) to high scientific insights and to a compelling political creed. And in this context, the awareness of a Hungarian presence in Romania's history and reality became almost cancelled or was negatively designed. In this tendency Ceausescu tried to influence and to curtail the school system of the Hungarian minority - and doing so, he curtailed the German and other minority schools too. This should be kept in mind,

because, after the turn in 1989 one of the first interethnic conflicts arose here in Tg. Mures, when some Hungarian schools tried to get rid of the Romanian-language classes, which they had been compelled to accept in their schools since about 1984.

Trying to summarize this very brief and superficial review of younger Transylvanian history from the perspective of the Hungarian and the German minority, I think we should be aware of the decisive role played by the national ideology since the 18th century: The Hungarians cultivated their dream of a Greater Hungary - combining romantic, ethnic elements, in the spirit of Herder, with elements of a state-ideology in the spirit of the French Revolution. Succeeding in 1867 they used state authority to assert ethnic Hungarian interests. The Romanians detected at the same time their *Latinity*, and claimed - on that ethnically-conceived basis - a new political rank inside Transylvania. This claim being refused by the traditional statutory "three nations", the Transylvanian Romanians turned their desires, relatively late, to a type of a state-solution, claiming the political union with the extra Carpathian Romanian kingdom. This kingdom, however, once realized, considered itself as well as a national state, understanding "national" in an ethnically restricted Romanian way. The Saxons, finally, lived totally in the romantic Herder-like idea of ethnically defined nationality. Their "Germanity" had nothing to do with state-combined territorial or constitutional solutions. (As a matter of fact: there was no geographical and no political basis for such a deformation of their ethnical feelings.) But in the confusion of the Second World War and of Nazi ideology, the German state gripped them (and they did not withstand tenaciously enough this grip). Thus they were implicated into the German disaster, loosing their biological, their material and their political potential of recovering. Despair and resignation seemed the final result.

But on the other hand there remained among the Hungarian minority as well as among a few Germans the will to survive the communist era, partly by adjusting their social life to the conditions of apparent demands of the communist state - as far as necessary, and as insignificantly as possible. Then it was, I think: not by chance, the stowed-up opposing feelings among the Hungarian minority which gave the spark for the revolution in 1989. At the beginning of the post revolutionary era, one could hope that the minority question would find new solutions in a spirit of new solidarity. Unfortunate events in the spring of 1990 brought up old resentments - on both sides: on the side

of the ethnic majority (which acts, of course, using the power of its number and of parliamentary and governmental force) and on the side of the minority (which acts on its part either with arguments or with emotional excitement). On both sides the danger of old hatred reappeared, but, fortunately, there were serious attempt to further insight and conciliation.

This is said mainly concerning the relations between the Romanian majority and the Hungarian minority - because this latter is the only powerful minority within the new Romanian democracy. The German minority appears to be a "quantité négligeable" in the eyes of most Romanians and of many Hungarians. But as a matter of fact, both historical Transylvanian minorities have remembered their tradition of political engagement and have founded organizations, to safe-guard responsibility in Romania. The Hungarians succeeded in uniting their different political wings in a union, obtaining in that way remarkable result in parliamentary elections, so that they were finally accepted, nay even invited to be partner in a governmental coalition, or, at least, partner of the governing party by some preliminary agreements. Such developments are relatively new. They lead necessarily to compromises from both sides - and such compromises will find their opponents, again from both sides.

Even Romania's Germans had decided in 1989 to try a new political start. They were and are aware of their modest chances. But those who decided not to leave Romania were determined to use the chances of democratic procedures, and to assume responsibility on a modest scale. They established in 1989 a Democratic Forum in five regions (the Banat, the Satu Mare-Region, Transylvania, Bukovina and the Transcarpathian Region). They obtained seats in local parliaments, and the electoral law made it possible for them to send a deputy into the chamber of representatives, where he has but the power of persuasion via argumentation. But this power must not be disregarded. They have obtained some positive results - and have gained a rather good reputation in the country - and beyond - representing a constructive factor of balance. They hope to continue that way in the near future, and to become, if it is God's will, a modest but attractive element for economic and cultural relations with central Europe. Would that not be a worthwhile political role? ■■

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# The European Convention and Draft Constitution<sup>1</sup>

by Péter Eckstein-Kovács<sup>2</sup>

The European Convention is an ad-hoc body that has already precedence in the history of the European Union. Its composition is varied; the members are Euro-parliamentarians, national parliamentarians, representatives of the national governments and commissioners. The working method of the Convention does not build on voting, it rather aims at the adoption of a text commonly agreed on. The Convention was established to discuss fundamental issues related to Europe's role in the international sphere, as well as to the division of competences within the Union. Core issues throughout the debate included the simplification of the EU institutional functions and instrumental policies, as well as the dilemma of its democratic legitimacy. It was quite a challenge how to develop a single voice for Europe in international affairs and finally, how to enact a Constitution close to European citizens.

In practice this meant the adoption of a single document that was entitled in the end a Treaty on the Constitution of Europe (a European Constitutional Treaty). The working method was built on plenary sessions and working groups. Several informal consultative bodies were as well enacted in order to ensure reaching a consensus, others than the already established working groups. For instance, such was a negotiating assembly of the political groups, one separate body formed out of the delegates of national parliaments, another one consisting of the representatives of governments and finally fractions of Euro-parliamentarians. All these formations functioned simultaneously, rendering the working process extremely complicated, but at the same time very effective. The Convention members and their replacements (the author was one of the latter) had the right to submit written documents containing their ideas and modification proposals to the draft prepared. The president of the Convention was Valérie Giscard D'Estaing, helped by two vice-presidents, one from Belgium and one from Italy. The presidium was in charge of collecting, organizing and valuing the materials received. Giscard was rather disliked in the first stage, because of his strong personality, but in the end, when a constitutional draft was indeed adopted with a consensus, he was highly applauded.

As far as the Constitution is concerned, the major underlying question was to what extent this draft would reflect a federal Europe. Presently mostly the intergov-

ernmental relations define the decisions within the European Union, and the dilemma was how and to what extent can the so-called supranational bodies, the Commission and the Parliament be empowered. The result was a compromise. It is important from this perspective that it was established: the European Union has legal statute. The European citizenship was created as well, implying that the EU member states' nationals are at the same time European citizens as well. Another important decision was that Europe would have one minister of foreign affairs, which fact transmits a unified image of Europe to the outside world. Furthermore, it was agreed that the European Council would have a president that does not have similar function in either of the member states. The Convention reached a consensus also regarding the fact that the principles of subsidiarity and proportionality would be asserted against that of unanimous decision-making.

In the forecoming period the Commission and then the national governments should discuss this draft, which is supposed to take a final shape towards the end of the year in Rome. The presence of the author was special, as he was the only one representing a national minority.

When analyzing the countries' standpoints on the constitutional issue, one may note that the Germans would like to see a federal Europe; whereas the British delegation opted for more national sovereignty, not allowing any federal elements in the constitution. It was a strategic moment, when the French and German presidents agreed on a common document to be submitted; starting from there a track was developed along which the compromises have been made.

It resulted in a highly problematic situation, when the cleavages between the small and the large states within the European Union have appeared for the first time. The debate was centered along two main questions; one was the leadership of the European Council, where the rotating presidency has been so far the rule, offering a possibility for the small and medium-size states to make their voices heard in decision-making. The other question was the composition of the Commission. Every state had one representative there as a rule, which raised problems of inefficacy and complicated operation with view to the new accessing members. Moreover, the so-called large states supported the idea that the European Union should have one president and thus the

rotation principle is annihilated. They also succeeded in achieving finally that the Commission remained a law numbered collective body, what inevitably meant that not all the member states could have a commissioner to represent them. Their first proposal was built on the idea that the number of the European Parliamentarians should be decreased: presently there are 732 members, and this number should reach 700.

The debate has started already over the name to be given to this community. There was a proposal that had a lot of sympathy, namely the United States of Europe. The negotiations were centered on the institutional reforms and the compromise was reached that the European Union would have one president, who cannot be holding any political position in the home country or has to automatically resign from it. The mandate is two and a half years with a single possibility of re-election. With regard to the Commission the agreement was made that it should have 13 members plus the president of the commission and the EU minister of foreign affairs. However, all the member states would have one additional commission-member, disposing of an observer status with no voting right. The mandate is five years, and the rotation principle would be asserted simultaneously, meaning for instance that those states, which have been observers for five years, in the next cycle would automatically become regular members with voting right. In the Council the consensual decision-making was maintained, but in the Council of Ministers the rule became decision by majority vote to ensure efficacy. A two-fold decision-making method is implied under majority: on one hand it is the simple majority of the single members of the body, while on the other hand the states represented by them had to reach three fifth of Europe's total population. Therefore the majority of the votes was taken into account together with a demographic component: the proportion of the represented population.

The other major challenge facing the Convention was the simplification of the Union's legal acts. Presently about twenty different legal acts can be performed by the various institutions of the Union, and this number was decreased to six by the new constitutional draft. Among these figure the European laws that are binding to all member states without ratification by the national parliaments and the framework laws that oblige the national parliaments to adjust their national legislation to their spirit and requirements, as well as the decisions and proposals characteristic to the Commission's operation. Another criticism that this constitution proposed to address was that the functioning of the

institutions was not transparent enough. As a counter-balance to this the sessions of the Council were rendered public (which was not the case before), when the adoption of a law was in question. At the same time the national parliaments will be more effectively empowered to shape the European-level legislation. There are detailed rules defining that the Commission is required to send all the draft laws to the national parliaments for consultation within a given time-frame, who give their opinions on them, and if one-third of the national parliaments consider that the principle of subsidiarity has been thereby violated, meaning that the policy in question can be better regulated on the national level, the draft is sent back to the Commission, which should consider this when submitting a new proposal.

Another very important question was the foreign policy of the European Union; the saying is well known that there is no Mr. Europe to pick up the phone whenever the US president wants to talk to him. A solution was very quickly and easily found, it was commonly agreed that there is indeed a need for an EU foreign affairs minister. Problems might be though caused by the fact that the presently established position of the President of the Council disposes as well of some competencies in external affairs, and the question remains how they are shared.

Furthermore, there were hot debates on the recognition and expression of the church's role in Europe. The compromise reached was a hint on the common religious tradition in the preamble, as part of the European heritage. There is also an article enumerating the partners of the European Union, where the churches figure as well among the other civic organizations, assemblies and trade unions. Another important stage in the constitutional process was the gathering of the Youth Convention, in which framework young people met in Brussels for a weekend in the same number as the convention members, and adopted their own decisions -this later became a permanent reference point in the Convention's work. Therefore the author believes that this meeting as well has an important role in deciding how to continue the process. Until the final dot is put on the end of the constitution all modifications are possible, however, presently the state presidents and prime ministers should be lobbied instead of the convention members, since they take the final decisions. ■■

<sup>1</sup> The text below is a script of the lecture delivered at the TCC

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# The Newsletter of the TCC

3<sup>rd</sup>-16<sup>th</sup> August 2003

## First week in Târgu-Mureș

The first week in Târgu-Mureș gave us a comprehensive approach of what will be the scope of the national minorities problem in the future Union. Coming from different countries, with a somehow common but also a diverse history, the debate with our colleagues allowed us to have an overview of the problem to tackle. Who would have ever imagined that a community of Saxons got stuck in the middle of Romania since the 12<sup>th</sup> century? Or who was aware of the problems with the 40% of the Latvian population composed by minorities? Dialogue and discussion made us understand how important it is to tackle these problems if we want to keep on living in peace, prosperity and social justice. The rights of these minorities have to be protected, in order to get that what all this issue is about: equality. Established in a territory that no longer belongs to the nation where they come from, or embodied in a bigger state that does not share their national characteristics they find it difficult sometimes to have equal access to the rights provided by their host nation state. The European Union can help to solve this situation, guaranteeing the recognition of the fundamental rights, which sometimes get dissolved at the collective level. The basic human rights find it difficult to be applied when the majority is blind to see the special needs or distinctive features of the minorities.



One of the plenary sessions of the TCC meeting

As young people that we are, ancient hatred/rivalries do(es) no longer mean anything for us. This has allowed us to look at the problem with an open mind, supported by all the lectures and data that served to give us an objective overview of the current situation.

Our common feeling is good will, good will to live altogether in one Europe where all, big or small minorities find their place.



One of the experts groups working

## This is our meeting!!

And, finally, we are here, in such a famous place, only known by its famous inhabitant, count Dracula. Everybody knows him, but where does he come from, Transylvania? Is that in the States? Nooooo, in Romania...

But Transylvania does exist, and it can surprise you not only because you can visit the Castle of Dracula, of course, but because of its colorful culture, because its history, the deeply and intimated stories of thousand of people that suffered the Second World War and the posterior dictatorial regimens in silence, as unknown people, as only the innocent victims can do in those situations. And we didn't know anything about this past, this part of the History, because it was far away from our realities. But we are discovering the results, and I think that we don't feel very proud of the actual condition of some groups of people that are being considered minorities in a negative way, only to emarginated them. We can't accept this situation in our minds, but unfortunately, it exists, it's the reality. And it is not only in Rumania.

ACC give us the possibility to be here in Transylvania not only to encourage our desire of improve the life conditions of the European citizens whatever would be, but also to open our eyes and minds and analyze it, comparing and sharing and exchanging our point of views, but also to try to improve the current legal

provisions with our own ideas. And it's exciting. We want to do it, but it is also the main objective of European Community in the Youth field: provide young people correct information and make them active participants in the political field.

In the TCC I think we are doing all these things at the same time that we are having a good time all together. Don't you think that we are lucky people? So, let's participate in this meeting without prejudices and with the only objective to learn new points of view of the others.

Here, in Tirgu Mures, Transylvania, we are trying to clarify some ideas about minorities and its role in the next Europe, the EU of the Convention. I think we expect so much of the coming situation, of the changes and the political decisions, like it will be an ideal status, but we have to look at our realities, and this is the moment. TCC is a good chance to do it. We have realized during these days that we can no longer satisfy the

request that each group of people can make to the common institutions. And, anyway, this is not an inefficient sign. It'll be a hard way still consider that all the European citizens have theory and practically the same rights, because even in our own countries this couldn't be done for many years, and still today...

But it's great and interesting to see us in this Transylvanian Community College, trying to draw up a conclusion about the minorities, because it makes us think about the matter, about the different populations. Then, I hope we will try to live according to the principles we have established here in our home countries, being ambassadors of equal rights. We can also work in a coherent way with the conclusions we will take and also with the information we are picking up of the lectures and the documents they will give us.

And if you want, and all that's all right, maybe we'll see again next year in... ???!!! (Let's vote to decide the place!!!) ■■

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## TCC 2003 - Work and fun really go together

by Mihai Musatoiu, Participant, Romania

*Hey Emilio, pass me the "Romanian water" please!*

*But I can't see it... Lars, where's the bottle with that strong stuff, palinka? Oh, there it is, under the papers with our Constitution Draft we've been working on today. Anna, I know you didn't sleep too much last night, but can you make an effort and pass me that bottle?*

Sometimes, living together, having fun together, drinking, dancing and sleeping together mix perfectly with working together on big common European issues. Transylvania Community Colleges 2003 was one of the events to prove the efficiency of this kind of working community. The 45 participants, coming from 12 different European countries, produced a Modification Proposal of the common European Constitution, pointing especially to issues concerning national minorities. They did it after two weeks in the city of Targu Mures, Romania, where they had the opportunity to know and understand each other, and also to learn about common European issues and about cooperation.

I come from Romania. I didn't know in Targu Mures you can barely hear people speaking Romanian language on the streets.

Szilvia comes from Hungary. She didn't know the name of my country is not spelled Rumania.

Lars comes from Germany. He didn't know that streets in Targu Mures are cleaner than those in his city back home.

Amir comes from The Netherlands. He didn't know anything about Romania before.

There were many things we didn't think of before meeting at Bod Peter school in Targu Mures. But there we were, the 45 of us, one August morning, just looking at each other and trying to understand how we will manage to get along together for the following two weeks.

In the end, not only we got along together very well, but in the last morning the result of our work was ready. There it was, lying on the table in the conference room, our Proposal for modifying the Constitution.

As Adrien from France was saying one day, the final product could be seen as less important than the process itself. The process, it's a simple word and sounds easy. But after the first week of lectures, there were four days full of hard debates, long workshops,

plenaries and discussions even in the dining room. Four days when we really learned to sustain our points, but also to listen. At the end of these four days, we had the product on our table. The *product*, another simple word, but a complicated story.

Looking behind, it becomes clear. This Proposal, born from the “volcano” of 45 young Europeans’ debate, can be nothing but valuable. The cultural diversity, the various opinions, on the one hand, and the new created feeling of a community, on the other hand, are enough reasons to see that the work of us, the participants of TCC 2003, can stand for a common view of the European youth. And maybe each one of us, the participants, came back home with a better understanding of all these abstract words: constitution, minorities, tolerance, and cooperation.

I know now that on the streets in Targu Mures you can hear people speaking mostly Hungarian. I also found out that Romania has 19 officially recognized minorities.

Szilvia knows now how to correctly spell the name of my country. She also found out that 30 percent of the Latvian population is represented by a Russian minority.

Lars observed that the streets in a Romanian town can be cleaner than in his German city. He also realized that, even if only one in a thousand comes to graduate University, Roma people can be very intelligent and civilized.

Amir now found out some things about Romania, even if he had to lose really bad a “Latin vs. Non-Latin” football game to understand that Romanians, French, Italians and Spanish have this game in their blood. Besides that, Amir also found out that in France there is not even one citizen belonging to a minority, according to the official position of the authorities.

All these new things we found out from each other or from the lectures contributed to the whole experience we got out of TCC 2003. We hope that our own contribution, the Proposal for modifying the European Constitution, will be as valuable for the decision makers as this two week course was for us.

*...Sure, there you go... take the palinka bottle. Hey Soren, where do we go tonight, After Dark or Black Dog? These Romanian bars have really funny names...Yes; I know tomorrow the workshop starts early again... But there's plenty of energy in this TCC 2003. Let's go!!!* ■■

## Big Brother's House

by Veronika Baranova, Participant, Latvia

How does it feel now, that we all went back home? It's so cold and rainy in Latvia that I keep on thinking about the hot sunny days we had in Tirgu Mures.

First of all, this project was such a mixture of different people and countries. We had many things differ: starting with clothing style, talking manners and even different food preferences. We did many things that one can be proud of or those that one can repent. But it's all over now. It's finished and I will remember you just as you were. Funny, lazy, witty or quiet. The work has been done and life continues to go on. I really hope that everyone else enjoyed TCC as much as I did. Sometimes when I think about it I really feel like comparing TCC to the Big Brother's house (it's a famous TV show). We stayed together 24/7! Would it be great if we had a confession room, where you could say what you actually think about this or that person? And if we could have the elimination process some persons would think twice before certain actions!



I know that there are 45 different opinions on why the participants liked TCC. Personally I'm thankful for everything that I've learned during these two weeks. It's wasn't only theory that has broadened my horizons but also different cultures and mentalities that I got to know closer. It is important for us to remember the organizers of TCC 2003. It is their merit that we all gathered together in Romania and their hard work that made us achieve the goal of this project.

Finally, I would like to thank all the TCC 2003 participants because no matter what you did or said or maybe what you didn't do or say, without you this event wouldn't be so special. ■■

# Bumball from Târgu-Mureș to Athens

*by John Petersen, Chairman, ACC*

A new sport has found its way to Târgu-Mureș for the first time. Bumball is the name, and it makes sense. The bum plays an important role in the game.

Wondering citizens of Targu Mures may have seen it walking near the university in the beginning of August. A group of Europeans taking part in the so-called Transylvania Community College used their leisure time to play Bumball.

And what did they see? Young people running around with a soft ball on chest or bum, in funny suits and with velcro-tape on it. This is exactly the idea of the sport. The velcro-tape on chest, bum and on the ball makes the ball stick to these parts of the body, and it unavoidably calls for a smile, when a player is running around on the fields with a ball stuck on her bum.

Receiving the ball means catching with chest or bum. It is not allowed to catch with the hands. Catching on the chest allows the player to pick off the ball with the hands, pivot on the spot and throw to the next player. Catching with the bum allows the player to run with the ball stuck to the bum, until s/he picks it off, pivot again and throw to the next player. The trick is to make the players catch the ball within the specially marked goal-zones.

Dropping the ball on the ground makes it necessary to pick up the ball. This has to take place with the velcro-taped bum and the likewise velcro-taped ball. Players have to move fast, because the task of the other team is of course to steal the ball. It is allowed to pick the ball with the hands from the other players bum.

The sport was invented in Denmark. Teachers in sport wanted to develop a game, which made it possible to use every muscle in the body and at the same time a game with built-in humor. A third criterion was that students or players should be inspired to think about and develop new rules during the play. The rules can be adjusted in accordance with the temperament of the players and the experiences obtained on the field. The sport-teachers very soon realized that they had to start an enterprise to sell and distribute the game and so they did.

For the time being the game is played throughout Europe by students and sport-people who just find it interesting to try something new. John Petersen from the Association for Community Colleges (ACC) who brought the sport to Targu Mures says: "We simply play it

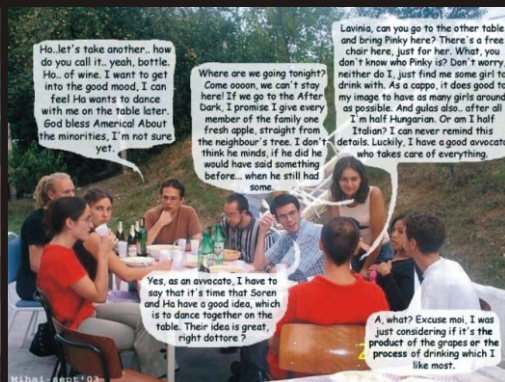
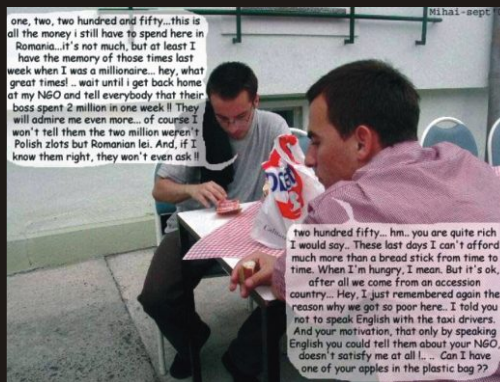
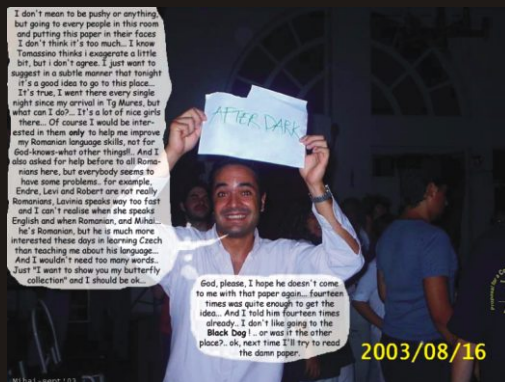
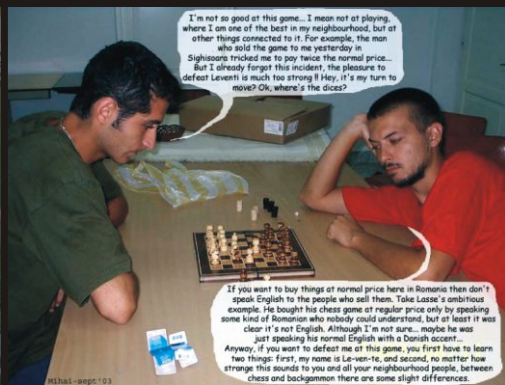
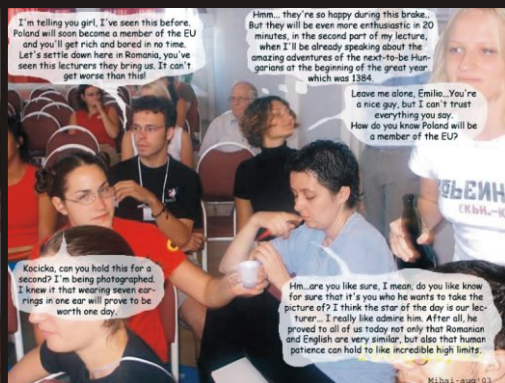
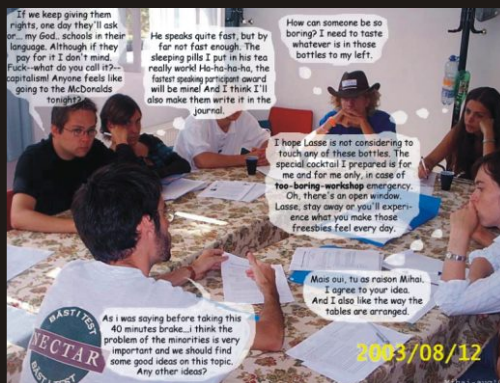
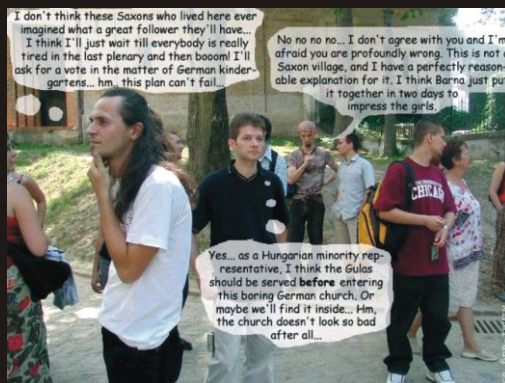
because it makes fun. The courses we organize are of political nature, so it is important sometimes to go out and do something more physical. The parts of the body used are per definition worth a laugh and that makes it brilliant for groups composed of people from all over Europe. Sometimes you just need something, which everybody finds funny without even talking about it."

The ACC is though helping the sport-teachers from Scandinavia, who stands behind the sport, because of one certain ambition. Sports and games are also tools for creating tolerance and detente across every kind of borders. This is as well the idea of the Olympic Games, and there is actually an ambition by time to make Bumball an Olympic Game and concrete work is done in that direction already now. "By making the sport known among students all over Europe we probably make it come closer that the sport will be introduced already in Athens 2004", says Barna Kovács.

Read more about Bumball at [www.balleball.dk](http://www.balleball.dk) and Association for Community Colleges at [www.acc.eu.org](http://www.acc.eu.org)

- Bumball is played by two teams, each consisting of up to six players.
- Three sets to 11 point are played.
- Goals are zones around a square-meter marked on the ground
- Players wear a suit consisting of a shirt and a lower part. Shirts and lower parts have Velcro-tape on chest and bum. Chest and bum can then catch the ball, which also is covered with Velcro-tape.
- You get points by catching the ball with your bum or chest standing in the goal-zone. Three points with the bum, one with the chest.
- The number of goals is one more than the number of players on one team.
- Hands are used to throw the ball, but the idea of the game is that receiving the ball, catching, has to take place with chest or bum.
- You can run with the ball on your bum, catching with the chest means that you have to stand and deliver - pivot.
- The game is started by highball.
- Bumball is manufactured by Letsplay in Denmark: [www.balleball.dk](http://www.balleball.dk) ■









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