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## Regulation of the Citizenship of Ethnic Hungarians Living Abroad: Ethnopolitics, Demographical Issues and Humanitarian Aspects – Bilateral and Unilateral Solutions

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## Abstract

The history of the Hungarian citizenship regulations from the late 19th to the late 20th century concerning ethnic Hungarians living abroad is investigated asking the following question: Is Hungarian ancestry and usage of the mother tongue a link strong enough to warrant Hungarian citizenship? The answer to this question has changed over the years in accordance with the demographical and political situation.

In 1879, when the first citizenship act was enacted, ethnic Hungarians constituted only a relative majority in Hungary. Since an increase in the ratio of ethnic Hungarians was a key goal, a new act was proclaimed, Act No. 4 of 1886 on the naturalisation of repatriated groups.

The end of the First World War and the Peace Treaty of Trianon in 1920 resulted in a completely new situation: Hungary lost two-thirds of its territory, and the inhabitants of these territories, more than 3 million ethnic Hungarians among them, lost their Hungarian citizenship. The peace treaty had a profound impact on the definition of citizenship, thus corrective measures were needed. However, ethno-political considerations waned over the course of the following two decades.

The next significant change happened in the years before the outbreak of the Second World War, when Hungary successfully revised the Trianon treaty and once again became a multi-ethnic state. Plans were made to settle ethnic Hungarians in Hungary, particularly the newly obtained territories with a mixed population. The situation after the Second World War resembled that following the First World War: repatriation measures were on the agenda.

During the era of communism, the issues of ethnic Hungarians living abroad disappeared from the political agenda, and with it their citizenship. This changed with the democratic transition of Hungary 1989–1990. After both the unsuccessful referendum on 5 December 2004 and the 2010 Act regarding simplified naturalisation, the issue remains a matter of political discussion.

**Keywords:** citizenship law, ethno-political measures, settlement, simplified naturalisation



Dóra Frey

## Regulation of the Citizenship of Ethnic Hungarians Living Abroad: Ethnopolitics, Demographical Issues and Humanitarian Aspects – Bilateral and Unilateral Solutions

### I. Introduction

In my paper, I present the history of the Hungarian citizenship regulations of the late 19th and the 20th centuries concerning ethnic Hungarians living abroad. These directives have been present since the development of modern citizenship law in the second half of the 19th century. The Hungarian citizenship law has been based on the principle of *ius sanguinis* from the very beginning, so the ancestry of a Hungarian citizen is the main link between the state and the citizen. The principle of *ius loci* came to force as an auxiliary to avoid situations of statelessness. Is the citizenship of ethnic Hungarians living abroad an extended understanding of the *ius sanguinis*? Is Hungarian ancestry and mother tongue a link strong enough for Hungarian citizenship? Is this the case even when not residing in Hungary? The answers to these questions have changed according to the specific demographic and political situation. In my paper, I try to explain the history of the regulation and its legal, political and historical background.

Although the practical importance of citizenship decreased in the European Union, this was not the case in the first half of the 20th century, and even today we should not underestimate the symbolic meaning of the link that citizenship creates between the state and the people. This effect is even stronger among people living in the former territories of the historical Kingdom of Hungary. After the unsuccessful referendum on 5 December 2004 and the act on simplified naturalisation in 2010, the issue is still a matter of political discussion, which generates strong emotions in Hungary and among the members of the Hungarian community abroad, making objective considerations and research on the topic difficult.

### II. Citizenship of ethnic Hungarians in the second half of the 19th century

#### 1. *The First Citizenship Act and its effects*

At first glance, it would seem that the question of citizenship of ethnic Hungarians became important after 4 June 1920, with the Peace Treaty of Trianon, as substantial – predominately Hungarian populated – territories became part of the surrounding countries. As a result, 13 million people, of which 3.3 million were ethnic Hungarians, lost their Hungarian citizenship. However, the first regulation pertaining to this issue predates the treaty by several decades, from the period of the dual monarchy of Austria-Hungary. The aim of this measure was to raise the ratio of Hungarians in this multi-ethnic state, and not to resolve the consequences of the territorial losses that took place in the 20th century.

When the first modern regulation on citizenship, Act No. 50 of 1879, was enacted, ethnic Hungarians constituted only a relative majority in Hungary, approximately 40% of the population. According to the 1881 Census (the first statistical polling of native languages), only 6.206.000 of the 15.642.000 inhabitants of Hungary claimed Hungarian as their native language (national affiliation was not asked, just mother tongue). At the same time, 2.325.000 people claimed Romanian as their mother tongue, 2.325.000 South-Slavic people (the Austro-Hungarian and Hungarian statistics did not differentiate between the Serbian and Croatian populations), 1.882.000 Germans and 1.779.000 Slovaks.<sup>1</sup> Increasing the ratio of the Hungarian population was a key goal, and plans were made to achieve it.<sup>2</sup> Since the assimilation of the other nationalities was proceeding too slowly from the perspective of the decision-makers, the settlement of ethnic Hungarians seemed to be a viable course

1 Az 1881. év elején végrehajtott népszámlálás (1882) 214.

2 PARRAGI (2000) 41.

of action. Two significant Hungarian ethnic groups resided abroad at that time: the Szekelys of Bukovina lived in the Austrian part of the dual monarchy in five villages after fleeing the violent suppression of an uprising in 1764<sup>3</sup> referred to as the Madéfalva Massacre, and the Csango people in Moldavia (at that time part of the Kingdom of Romania) living in that territory since the Middle Ages.<sup>4</sup>

Act No. 50 of 1879 concerning the obtainment and loss of Hungarian citizenship, commonly called the First Hungarian Citizenship Act, regulated re-naturalisation as a special case of the naturalisation in § 38 of the act. Neither Hungarian ancestry nor Hungarian as the native language played a role here. The only criterion to reobtain citizenship was former Hungarian citizenship. This means that an ethnic link was not enough to justify re-naturalisation, and the Citizenship Act ensured no privileged obtainment of citizenship for people with Hungarian ancestry.

## 2. *The act concerning naturalisation of repatriated groups – a solution for a multi-ethnic state?*

From the point of view of the Hungarian political class, and according to Act No. 44 of 1868 pertaining to the equal rights of the nationalities, the Hungarian nation was »the one and only political nation« in the Kingdom of Hungary. The leading role ethnic Hungarians played in politics, state administration, science etc. and the supremacy of the Hungarian language were often criticised by the national minorities – mainly by the Romanian, Slovak and Serbian populations. The increase in the ratio of ethnic Hungarians was meant as an answer to these voices. Measures to force the assimilation of other groups varied, and the settlement of ethnic Hungarians was planned as an additional attempt.

Since the five abovementioned villages in Bukovina were overpopulated, poor and part of the inhabitants forced to work seasonally on *latifundia* in Moldavia, the Szekelys of Bukovina requested a resettlement to Hungary, even petitioning to the prime minister in 1882. Given that the inhabitants of Bukovina were Austrian citizens – for there was

no common Austro-Hungarian citizenship during the period of the dual monarchy – the Hungarian government did not want to risk a conflict with Austria. As such, the settlement was formally not implemented by the state administration, but instead by a committee – and further settlements were also planned, as the name Csango-committee suggests.<sup>5</sup> About 4.000 Szekelys were settled from Bukovina to three villages in the Lower Danube region (near what is today Pancevo, Serbia) in 1883. While not organised by the state, it was nevertheless supported by the Hungarian authorities, in particular by the government commissioner of the Lower Danube region.<sup>6</sup>

The settlement caused administrative and legal problems regarding the legal status of the settlers, who had Austrian citizenship,<sup>7</sup> as Bukovina was a province of the Austrian part of the dual monarchy. Because their forefathers left Hungary more than 100 years earlier, therefore they were never Hungarian citizens in the modern sense, re-naturalisation was not a suitable solution for the Szekelys of Bukovina. Thus, they had to fulfil the conditions of naturalisation in accordance with § 8 of Act No. 50 of 1879. They had to obtain a place of origin (*községi illetőség*), live and pay taxes in Hungary for five years, demonstrate an excellent moral character, have enough property or income to provide for themselves and their family, and had to submit an application to the Minister of Home Affairs – a long, complicated and expensive process. A particular problem was the place of origin (*községi illetőség*), a special Hungarian legal institution similar to the *Heimatrecht* or *Heimatrechtsstellung* in various legal systems of the German-speaking realm. It was neither equivalent to the permanent residency nor to the place of birth in many cases. Instead, it was a legal connection between a citizen and a commune, and it was conditional upon residency and tax payment, in some cases requiring a formal application. This status and the accompanying process existed from 1871 to 1948, and it caused a number of problematic issues within the context of the citizenship law, primarily due to its differences to permanent residency.<sup>8</sup>

A common citizenship in the Austro-Hungarian Monarchy never existed, and even a double Austrian and Hungarian citizenship was prohibited, as

3 SEBESTYÉN (1989) 16.

4 LÜKŐ (1936) 15–24.

5 SEBESTYÉN (1989) 99.

6 SÁNTA (1942) 84–99.

7 FERENCZY (1930) 68.

8 PARRAGI (2000) 41.

regulated by a treaty between the two parts of the monarchy.<sup>9</sup> In other cases it presented no difficulties, as citizens in the other part of the monarchy were guaranteed the freedom of movement and economic activity.

To meet this challenge and to make repatriations easier, a new act was proclaimed: Act No. 4 of 1886 concerning the naturalisation of repatriated groups and targeting the organised settlements of ethnic Hungarians to Hungary. According to the justification of the act, while the resettlement of the Szekelys and the Csangos was planned, it also applied to the repatriation of the descendants of the emigrants to the USA.<sup>10</sup> According to the First Citizenship Act, emigrants lost their citizenship after ten years of non-residency, or after five years if they were naturalised in the USA, as stipulated in an 1870 agreement between the Austro-Hungarian Monarchy and the USA (proclaimed in Act No. 43 of 1871). These measures affected 1.39 million people who left the Kingdom of Hungary until 1910 (90% of them emigrated to the USA), but about two-thirds of them did not speak Hungarian as their mother tongue.<sup>11</sup>

The repatriated groups could apply for Hungarian citizenship together in a single official request, free of any charges and the place of origin was determined by the Minister of Home Affairs. For the naturalisation of repatriated groups, the rules of the re-naturalisation were adopted, the only difference being that an ethnic link was now sufficient (versus having an ancestor with Hungarian citizenship). Moreover, the possibility of obtaining Hungarian citizenship was given only to persons who moved to Hungary, not to people living abroad.

Act No. 4 of 1886 concerning the naturalisation of repatriated groups was created as an ethnopolitical measure to increase the ratio of ethnic Hungarians in Hungary, a then multi-ethnic state. This action, however, was not particularly successful: although a new regulation for the settlement was established, no larger settlements were organised by the Hungarian state until the First World War. Nevertheless, about 2.000 Szekelys of Bukovina moved to Hungary in small groups to different

villages in Transylvania as the result of private initiatives, most of them (ca. 700 persons) to Déva (now Deva, Romania).<sup>12</sup> While no concrete plans were made for the repatriation of the Csangos, and after the First World War, the topic disappeared from the political agenda for decades,<sup>13</sup> Act No. 4 of 1886 nevertheless remained in force.

### III. The first half of the 20th century – the effects of wars and peace treaties

#### 1. *The Peace Treaty of Trianon and its effects*

The end of the First World War and the Peace Treaty of Trianon of 4 June 1920 (in Hungary proclaimed in Act No. 33 of 1921) resulted in a completely new situation: Hungary lost two-thirds of its territory, and the inhabitants of these territories lost their Hungarian citizenship, more than 3 million ethnic Hungarians among them.

The peace treaty profoundly impacted internal issues of citizenship. As the Austro-Hungarian Monarchy constituted a single subject of international law, the international treaties dealt with it as one state. The separate peace treaties were signed with each of the successor states after the First World War, with Austria in Saint-Germain on 10 September 1919, which regulated the disbanding of the Austro-Hungarian Monarchy and the so-called *Österreichische Länder*, the Austrian part of the monarchy.

According to Art. 61 of the Treaty of Trianon:

»Every person possessing rights of citizenship (*pertinenza*) in territory which formed part of the territories of the former Austro-Hungarian Monarchy shall obtain ipso facto to the exclusion of Hungarian nationality the nationality of the State exercising sovereignty over such territory.«<sup>14</sup>

*Pertinenza* meant the place of origin (*községi illetőség/Heimathberechtigung*) and was not in every case identical with the place of permanent residence. For people who obtained the *pertinenza*

9 VARGA (2005) 551.

10 FERENCZY (1930) 116.

11 PARRAGI (2000) 40.

12 SEBESTYÉN (1989) 118.

13 V. KÁPOLNÁS (1994) 255–261.

14 [https://wwi.lib.byu.edu/index.php/Treaty\\_of\\_Trianon](https://wwi.lib.byu.edu/index.php/Treaty_of_Trianon).

later than 1910, permission was needed to receive the nationality of the new country they lived in. (Art. 62)

Of course, there was need for corrective actions, and there were two types of measures: the first was based on the ethnic link. Article 64 of the Peace Treaty of Trianon regulated the so-called ethnic option, which meant that ethnic affiliation was the main link between the state and the citizen:

»Persons possessing rights of citizenship in territory forming part of the former Austro-Hungarian Monarchy, and differing in race and language from the majority of the population of such territory, shall within six months from the coming into force of the present Treaty severally be entitled to opt for Austria, Hungary, Italy, Poland, Roumania, the Serb-Croat-Slovene State, or the Czecho-Slovak State, if the majority of the population of the State selected is of the same race and language as the person exercising the right to opt.«<sup>15</sup>

The so-called optants were obliged to move to Hungary within twelve months.<sup>16</sup> A husband's citizenship decision applied to his wife and the underage children. This right of the ethnic option, ensured by international law, was open not just to the Hungarians but to all inhabitants of the former Austria-Hungary Empire. It gave ethnic Hungarians living in the neighbouring countries the possibility to opt for Hungarian citizenship on the condition they moved to Hungary. Exercising the option required a birth certificate, a birth certificate of the father and the certificate about the place of origin – which, of course, complicated the whole process, especially for those needing to obtain the documents from another country.<sup>17</sup> Without clear proof of citizenship, it was also quite complicated to get passports or similar personal documents.

The other regulations, both on the international and national level, were corrective measures for the problems caused by the Treaty of Trianon: foremost among them was that place of origin, rather than permanent residence, was decisive when it

came to the determination of future citizenship after the treaty. This regulation meant that many people living in so-called »little« Hungary lost their Hungarian citizenship, as their place of origin lied outside of the new borders. The peace treaty itself contained corrective regulations for just such cases. People who lived in a transferred territory but had a former place of origin in the territory remaining Hungarian could opt for Hungarian citizenship within 12 months, in accordance with Article 63 of the treaty. Many people who spent only a few years in territories now belonging to the neighbouring states made use of this option, including teachers, officers of the state administration, employees of the railways and the postal service. Since they had no possibility to continue their professional careers in another country, they moved back to Hungary.

The deadline of six to 12 months to decide whether to opt in or out was rather short, and there were a great number of people living in Hungary either without Hungarian citizenship or a clear civil status. Therefore, there was also a unilateral solution in Act No. 17 of 1922 § 24. Somewhat surprisingly, this was a budget act pertaining to the first half year of the budget term 1922–23 – by no means a typical form of law-making when addressing citizenship issues. In contrast to the ethnic option of the peace treaty, this act included a supplementary regulation for persons actually living in Hungary or being forced to move there, as the post-monarchy successor states Czechoslovakia and the Serb-Croat-Slovene Kingdom had the right to refuse citizenship to any person who moved to their territories after 1910. The Minister of Home Affairs was granted the jurisdiction to decide matters of civil status if it was unclear or contentious. In such cases, ethnic affiliation and permanent residence together built the case for the Hungarian citizenship.

There was a third corrective possibility. The renaturalisation of persons who lost their Hungarian citizenship after 26 July 1914 was possible via a decision by the Minister of Home Affairs, abandoning the conditions of Act No. 50 of 1879,<sup>18</sup> in cases deserving special consideration, if they already lived in Hungary, or were about to move

15 [https://wwi.lib.byu.edu/index.php/Treaty\\_of\\_Trianon](https://wwi.lib.byu.edu/index.php/Treaty_of_Trianon).

16 KISTELEKI (2000) 57.

17 PARRAGI (2000) 42.

18 FERENCZY (1930) 115.

there and had permission to do so. The Minister of Home affairs was responsible for granting the permission to move.<sup>19</sup> Both the special consideration required for re-naturalisation and formal permission to move to Hungary by the Minister were necessary measures to control the number of persons moving to Hungary. Since the Hungarian state government did not think it would be able to settle large numbers of people who did not possess any anterior residency in the country, the Minister did not grant many permissions. Even at that time, many of the refugees arriving from the neighbouring countries lived in railway cars or other temporary shelters for years.<sup>20</sup>

Nevertheless, the number of the re-naturalised persons as a result of Act No. 17 of 1922 was still quite high. Approximately 350.000 people moved to Hungary,<sup>21</sup> and many thousands had to be re-naturalised, as their place of origin was outside of the new borders, although they in fact lived in the territory referred to as »little« Hungary.

Act No. 17 of 1922 was a supplementary regulation designed to resolve the consequences triggered by the Treaty of Trianon for hundreds of thousands of refugees from the surrounding countries, so there was a distinct humanitarian dimension behind the ethnic link. Although also decided unilaterally from the top-down, the motivation for this act was very different from the one behind the 1886 law on the naturalisation of repatriated groups. This was not an ethnopolitical measure, but instead a correction of the effects brought about by the peace treaty. Another further relevant difference was that the ethnic link was not sufficient to obtain Hungarian citizenship, given that former citizenship was necessary. Since the aim of this regulation was to make the status of all persons living in Hungary absolutely clear, the regulation was adapted to the real-world situations of the people.

Since Hungary was a nation-state with 89% Hungarian native speakers after 1920, the ethnopolitical considerations faded into the background for the next two decades.<sup>22</sup> The repatriation of ethnic Hungarians was not forced, on the one hand, because Hungary was a nation-state, and

on the other, the main goal of Hungarian politics after the First World War was the revision of the Trianon Peace Treaty – the rather substantial Hungarian population in the so-called »divided territories« was one of the arguments for this change of focus.

## 2. *The territorial revision before and during the Second World War – once again a multi-ethnic state*

The next change in attitude towards citizenship of ethnic Hungarians came in the years just prior to the Second World War, when Hungary successfully revised the Trianon Peace Treaty with the support of Nazi Germany and Italy. The First Vienna Award in 1938 returned territories to Hungary from Czechoslovakia. In 1939, Carpathian Ruthenia was occupied by the Hungarian army as Czechoslovakia was dissolved. In 1940, the Second Vienna Award transferred the northern part of Transylvania from Romania to Hungary, and finally Hungary occupied the Vojvodina in 1941. As a consequence of this territorial increase, Hungary once again became a multi-ethnic state, but Hungarian communities still resided in the surrounding countries, most of them in South-Transylvania.

The first Vienna Award did not include any specific regulation on citizenship; instead, it obliged the two parties, Hungary and Czechoslovakia, to find a solution to this issue in a separate agreement. An agreement was reached in February 1939, and the regulation was similar to Art. 64 of the Trianon Treaty in that ethnic Hungarians living in territories in Czechoslovakia could opt for Hungarian citizenship.<sup>23</sup>

The Second Vienna Award dated 30 August 1940 made it possible to opt for either Hungarian or Romanian citizenship, according to Art. 4. The same article allowed Hungarians with permanent residence in Romanian territories »assigned from Hungary in 1919« and left under Romanian control after September 1940 to waive their Romanian citizenship. Interestingly, many Szekelys of Bukovina lost their Romanian citizenship after Roma-

19 FERENCZY (1930) 119.

20 PARRAGI (2000) 43.

21 FERENCZY (1930) 112.

22 PARRAGI (2000) 42.

23 PARRAGI (2000) 42.

nian authorities required them to decide between Hungarian or Romanian citizenship.<sup>24</sup> However, this was a false interpretation of the Second Vienna Award, because Romania obtained Bukovina from Austria and not from Hungary, thus the Szekelys of Bukovina were Austrian rather than Hungarian citizens. In fact, the Vienna Award made residency in territories that had belonged to Hungary before 1918 and remained Romanian after the Award – and not ethnic affiliation – the basis of the option, so it would not have applied to the Szekelys of Bukovina.

As Hungary was once again a multi-ethnic state, the resettlement of persons of Hungarian nationality resurfaced on the political agenda,<sup>25</sup> taking into account that Act No. 4 of 1886 was still in force. New plans were made for the settlement of ethnic Hungarians to Hungary in the newly obtained territories with a mixed population. Plans for the resettlement of the Szekelys of Bukovina (about 13.000 persons) and 150.000 Csangos from Moldavia were made, as well as, in the long term, the resettlement of all Hungarians living in the neighbouring countries once the future borders of Hungary became clear. The goal was to create national states to avoid ethnic conflicts and wars. The idea of the so-called ethnic separation was quite common in the period between the two world wars, and it was partly realised in South-Tyrol.<sup>26</sup> The German programme »*Heim ins Reich*« (Back home to the *Reich*), which aimed to resettle ethnic Germans from eastern Europe to the newly occupied Polish territories, followed this idea as well.<sup>27</sup>

In fact, 13.000 Szekelys of Bukovina were resettled to the occupied Vojvodina in May–June 1941 at their own request.<sup>28</sup> This was regulated by an agreement between Hungary and Romania, and Act No. 4 of 1886 was applied this time to naturalise these people. However, the plans to resettle the Csango people could not be carried out due to the events of the Second World War. Spontaneous migrations also occurred. In one such case, more than 150.000 Hungarians left southern Transylvania, which remained Romanian territory after the Second Vienna Award, as they opted for Hungarian citizenship (and even more ethnic Romanians

from North Transylvania did so to obtain Romanian citizenship).<sup>29</sup>

### 3. *The Peace Treaty of Paris and its effects*

After the Second World War, the situation was quite similar to that right after the First World War: the Armistice Agreement signed in Moscow on 20 January 1945 obliged Hungary to evacuate the territories returned before and during the war, and the borders according to the Trianon Treaty were again reinstated. Consequently, many native Hungarians living in these areas lost their Hungarian citizenship without obtaining citizenship of another country. Since neither explicit regulations on citizenship nor even provisions about offering options – as found in the Treaty of Trianon – were included in the Peace Treaty of Paris of 10 February 1947 (proclaimed in Act No. 18 of 1947 in Hungary), the inhabitants of the former Hungarian territories did not receive the citizenship of the new home state as part of the treaty. An important issue with regards to citizenship involved the ethnic Hungarians in Czechoslovakia, who were not affected by the population exchange treaty with Czechoslovakia on 26 February 1946. The problem was that the neighbouring states refused citizenship to many Hungarians, and the peace treaty did not obligate them to do so.

Romania refused citizenship to all of the so-called optants (persons who opted for the Hungarian citizenship after the Second Vienna Award) and persons who moved after the Second Vienna Award to now Romanian territories.<sup>30</sup> On 10 February 1949, Hungary and Romania approved a bilateral treaty on citizenship issues (proclaimed in Act No. 14 of 1949), as a corrective measure for the situation resulting after the Second World War.<sup>31</sup>

The second Czechoslovakian state denied citizenship to all Hungarian persons in accordance with No. 33 of the so-called Benes decrees from 2 August 1945 (formally decrees of the president of the Czechoslovakian Republic): persons who had obtained Hungarian citizenship after the First Vienna Award (but lost it after the Vienna Awards were declared void) and all other persons with

24 SEBESTYÉN (1989) 126.

25 V. KÁPOLNÁS (1994) 255.

26 TILKOVSKY (1991) 106.

27 SEEWANN (2003) 343.

28 A. SÁJTI (1984) 47; VINCZE (2001) 147.

29 PARRAGI (2000) 44.

30 VINCZE (1999) 191.

31 PARRAGI (2000) 44.



Hungarian nationality. In June of 1946, the ethnic Hungarian inhabitants of Czechoslovakia were given the possibility of obtaining citizenship by means of the so-called »*reslovakisation*«: they had to declare that they want to be Slovaks »again«, as their ancestors were Slovaks that went through Hungarisation over the centuries. The purported aim of the campaign was to remove the Hungarian minority – even from the statistics. In the end, about 400.000 Hungarians chose this option, many of them not even able to speak Slovakian.<sup>32</sup>

Since the situation from the Hungarian point of view was much like that after the First World War, the legislation passed by the government after the Second World War was also quite similar. There were supplementary regulations, such as government order No. 5.070/1945, which presumed Hungarian citizenship to all persons who had obtained the citizenship according to the withdrawn regulations and had their permanent residence in Hungary,<sup>33</sup> but in this case, the permanent residence was the decisive factor rather than the ethnic link.

Furthermore, Act No. 60 of 1948, the Second Citizenship Act, included the following supplementary regulations: all persons able to prove permanent residence in Hungary, possessing no other citizenship and either themselves or their parents born in the territory of the Kingdom of Hungary before the Trianon Treaty, the so-called historical Hungary, were Hungarian citizens. This regulation concerned many Hungarian refugees who left the neighbouring countries after the war and included the same regulation content as government order No. 5.070/1945, the difference being that here Hungarian citizenship was given versus assumed.<sup>34</sup>

Another instance of privileged naturalisation was given to persons born in historical Hungary with ancestors who possessed Hungarian citizenship at any point in time, and have permanent residence in Hungary or are intending to move there, and to persons born in historical Hungary and living in Hungary, even if they were not able to confirm the Hungarian citizenship of their parents. In practice, this meant people born to Hungarian

parents after 1920 as foreign citizens in neighbouring countries. Both options required the Minister of Home Affairs to decide on a case-by-case basis as well as cases deserving special consideration.<sup>35</sup>

The so-called Population Exchange Treaty between Hungary and Czechoslovakia, signed on 27 February 1946, was just such a special case. Almost 100.000 people lost Czechoslovakian and obtained Hungarian citizenship under the treaty and were forced to leave Czechoslovakia.<sup>36</sup>

The measures between 1918 and 1948 regarding citizenship of native Hungarians can be divided into three groups: first, the option of selecting Hungary made possible by the Trianon Treaty and the Vienna Awards. In this first group, the people made individual decisions, assuming they met the only criterion, that is, being able to prove Hungarian ethnicity. And while the Hungarian government tried to keep the number of persons falling into this category relatively low, for economic reasons, a great number of people obtained citizenship via this measure.

The second group is made up of the supplementary or corrective regulations for persons affected by the peace treaties of Trianon in 1920 and Paris in 1947. The Hungarian literature on this topic calls them repatriation measures. Some of these types of measures adapted the law to fit the factual situation, while others opened up possibilities of a privileged naturalisation or re-naturalisation. They often decided on cases deserving special consideration. Proof of former Hungarian citizenship, either personally or paternally, was decisive in these cases, not Hungarian ethnicity. In practice, however, these acts affected persons of Hungarian nationality.

Third, population exchanges effectively amounted to forced ethnic-based relocation, and unlike all other measures, it resembled ethnopolitical aspects of Czechoslovakia rather than Hungary. After the Second World War, Hungary became even more of a nation-state: about 70.000 Slovakian nationals settled in Czechoslovakia as a result of the Population Exchange Treaty, and 150.000 German native speakers were forced to leave the country. While large groups of Hungarian minor-

32 VADKERTY (2007) 323.

33 PARRAGI (2000) 44.

34 Act No. 60 of 1948 § 27.

35 KISTELEKI (2000) 60.

36 VADKERTY (1999) 166–167.

ities still remained in the surrounding states, their problems were simply not on the political agenda at that time. According to the official position, one of communism's explicit goals was to solve the issue of national minorities in all countries under the Soviet Union's sphere of influence. Relationships with the »socialist brother nations« should not be disturbed by the problems of the Hungarian minorities, so the state-controlled media didn't mention them, and Hungarian diplomacy made hardly any efforts to push this topic. In other words, the problem was officially non-existent.

#### IV. The communist period: denial of the Hungarian minorities?

The Third Citizenship Act, Act No. 5 of 1957, regulated privileged naturalisation: it was possible to obtain Hungarian citizenship without the required three years of permanent residence if one could prove that an ancestor had been a Hungarian citizen – again a measure primarily targeting ethnic Hungarians. The applicant had to prove permanent residency in Hungary or that they were about to move to Hungary. In the latter case, permission had to be obtained from the foreign police authority. Since the conditions for being granted permission were not public, this was regulated by means of secret directives.<sup>37</sup>

Although it was admitted by the Third Citizenship Act, Hungary signed similar bilateral treaties to avoid dual citizenship with all other countries in the socialist bloc. Whether these treaties were signed to avoid providing Hungarian citizenship to Hungarian minorities in the surrounding countries is still quite controversial. The diplomatic records do not show any indications of this being the case, and treaties were also signed with countries that didn't have a Hungarian minority (for example, Poland or Mongolia). However, one paragraph in the treaties did effectively block this possibility: the naturalisation of citizens of the other party nations was not possible without the

agreement of said party. Romania was able to block ethnic Hungarians from Romania applying for naturalisation in Hungary by refusing to agree.<sup>38</sup> Another problem was the fact that these treaties were not made public; many people addressed by them did not even know of their existence.

#### V. From the democratic transition to the present: legal unification of the Hungarian nation?

After the democratic transition in Hungary, the new citizenship Act No. 55 of 1993 was enacted; at the same time, the situation of Hungarian minorities in neighbouring countries also became an item on the political agenda. The Fourth Citizenship Act admitted Hungarian ancestry as a case of privileged naturalisation: only one year of permanent residence was required (instead of eight years) if the applicant declares his/her Hungarian nationality and had ancestors possessing Hungarian citizenship. It made the naturalisation of Hungarians from neighbouring countries possible, assuming they lived in Hungary and fulfilled all other requirements.<sup>39</sup>

The Hungarian citizenship of ethnic Hungarians living abroad was an issue in the decades after the democratic transition in 1989–1990.<sup>40</sup> In 2004, an NGO, the World Association of Hungarians (*Magyarok Világszövetsége*), started a plebiscite for a referendum on the topic. This referendum was held on 5 December 2004, and was unsuccessful, with less than 37.49% of the electorate voting. According to the regulations at that time, more than 25% of the voters had to vote for the measure, which was not the case: 51.57% voted for and 48.43% voted against it.<sup>41</sup> Given that the then government (a coalition of the social democratic MSZP and the liberal SZDSZ parties) was against dual citizenship of ethnic Hungarians, and a two-thirds majority was required to modify the Citizenship Act, no new regulation was enacted. The result of the referendum caused outrage and disappoint-

37 PARRAGI (2000) 46.

38 PARRAGI (2000) 47.

39 PARRAGI (2000) 48.

40 KÖRTVÉLYESI (2011) 49.

41 Announcement by the National Voting Office ([https://static.valasztas.hu/nepszav04/main\\_hu.html](https://static.valasztas.hu/nepszav04/main_hu.html)).

ment among Hungarian communities abroad and widened the divide within Hungarian public opinion.<sup>42</sup>

In the campaign leading up to the parliamentary elections of 2010, simplified naturalisation of ethnic Hungarians was one of the central promises of the then opposition and today's government parties, FIDESZ and KDNP. On 26 May 2010, the modification of the Citizenship Act was the first legislative act of the newly elected parliament, which had the necessary two-thirds FIDESZ-KDNP majority. The modification of the Citizenship Act was admitted with a clear majority,<sup>43</sup> with even some members of the opposition voted in favour of it. There were 344 »yes« votes, 3 »no« votes, 5 abstentions and 21 members were absent.<sup>44</sup> The new regulation came into force – as a symbolic act – on 20 August 2010, the Hungarian national holiday, and was applied after 1 January 2011.

According to the new regulation, anyone who has ancestors with Hungarian citizenship, or can establish their likely Hungarian ancestry, and speaks Hungarian, except for persons previously convicted or under a criminal proceeding, or if the naturalisation endangers the public and national security of Hungary, can apply for citizenship. Neither permanent residence in Hungary nor the intention to relocate there are required. Although the new regulation was designed for ethnic Hungarians – as the declared justification for the act is the »legal unification of the nation« – declaration of one's Hungarian ethnic affiliation is not a requirement, just ancestry and knowledge of the Hungarian language. This change is an effect of modern international law on the law of citizenship: ethnic neutrality is required and a genuine link between citizen and state is obligatory,<sup>45</sup> according to the so-called European Convention on Nationality, Treaty No. 166 of the Council of Europe from 1997 (in Hungary proclaimed in Act No. 3 of 2002).

The clause requiring »likely Hungarian ancestry« is particularly interesting, as it is expected to pertain to those applicants whose ancestors never possessed Hungarian citizenship, which today can only be the case if their ancestors never lived in the historical territory of Hungary, including the whole Carpathian Basin. In practice, this encompasses one of the larger ethnically Hungarian groups, the Csangos, who have been living in Moldavian territories since the Middle Ages, and who consequently have legally never been Hungarian citizens. Unsurprisingly, the regulation quickly became known as the »Csango clause«.<sup>46</sup>

Such simplified naturalisation allows for all ethnic Hungarians to obtain Hungarian citizenship – the government advertised it as an act to bring legal unification of the Hungarian nation. Since 2011, more than 1.1 million people have applied for the simplified naturalisation, most of them without permanent residence in Hungary.<sup>47</sup> For the inhabitants of Ukraine and Serbia, it also means obtaining the EU citizenship, including the right of the free movement of persons and the four freedoms of the single market, as well.

The new regulation was also criticised: first, the high risk of abuse was cited, as Hungarian ancestry need only be probable, and no rigorous check of the documentation or Hungarian language proficiency is carried out. It is estimated that several thousand Ukrainians and Serbians obtained Hungarian citizenship and the freedom of movement in the EU without actually fulfilling the requirements.<sup>48</sup> The second criticism holds that the FIDESZ-KDNP coalition followed its own political agenda, as the Hungarian citizens living abroad gain the right to vote for the party list of the Hungarian parliament elections. At the last elections in 2018, 266.000 persons voted without residence in Hungary for the party list (they have no vote in the constituencies), 96% of which voted for the common party list of FIDESZ-KDNP, but this resulted in no additional seat.<sup>49</sup> Independent

42 KÖRTVÉLYESI (2011) 49.

43 Act No. 44 of 2010 regarding the modification of Act No. 55 of 1993 pertaining to Hungarian citizenship.

44 [https://hvg.hu/itthon/20100526\\_elfogadtak\\_kettos\\_allampolgarsag](https://hvg.hu/itthon/20100526_elfogadtak_kettos_allampolgarsag) (HVG 26th May 2010).

45 PARRAGI (2000) 38.

46 KÖRTVÉLYESI (2011) 49.

47 Announcement made by State Secretary Dr. Zsolt Semjén in his report for the Committee of National Togetherness of the Hungarian Parliament on 9 December 2019 (<https://www.parlament.hu/documents/static/biz41/bizjkv41/NOB/1912091.pdf>).

48 DOBOS/DOBOS-BALOGH (2019) 57–63.

49 Announcement of the National Voting Office on 3 May 2018 (<https://www.valasztas.hu/levelsavazas-jegy-zokonyv>).

of political preferences, the fact cannot be denied that several hundred thousand voters neither living in Hungary nor directly affected (if at all) by the decisions made there have the right to vote in the parliamentary elections.<sup>50</sup> The third point is that the freedom of movement made possible by means of Hungarian citizenship increases the emigration of the ethnic Hungarians and weakens the Hungarian communities, especially in Carpathian Ruthenia (Ukraine) and the Vojvodina (Serbia).<sup>51</sup> It should also be mentioned that of the surrounding countries with a significant Hungarian population, Slovakia prohibits dual citizenship and withdraws Slovakian citizenship if someone obtains Hungarian citizenship. Consequently, most of the ethnic Hungarians in Slovakia remained Slovak citizens and never applied for Hungarian citizenship.

The most recent regulation regarding the citizenship of ethnic Hungarians was portrayed as a symbolic act, as »the legal unification of the Hungarian nation«, or »correction of the injustice of Trianon«, although it also has other political and social effects. This is the first measure that doesn't require moving to Hungary and made hundreds of thousands of people dual citizens.

## VI. Summary

The question of Hungarian citizenship of ethnic Hungarians has been on the agenda in Hungary since the beginning of modern citizenship law. Both the regulations and their underlying motiva-

tions have varied. With the exception of the First Citizenship Act, Hungarian ancestry has played a role in most of the regulations, though with different emphases.

In the era of the dual monarchy, the rationale for simplified naturalisation of ethnic Hungarians was to increase the ratio of Hungarians in the Carpathian Basin of the multi-ethnic Hungarian state. Act No. 4 of 1886 was created to facilitate the resettlement of ethnic Hungarians who had never been Hungarian citizens, with Hungarian ancestry being the only link.

The second period in the history of the citizenship regulation extends from just after the First World War until after the Second World War, in which the goal was to counter the consequences of the territorial changes undergone by Hungary and the re-naturalisation of ethnic Hungarians who lost their Hungarian citizenship but lived in Hungary, those who were about to move there voluntarily or even forced to do so.

After the communist period, when the naturalisation of ethnic Hungarians was made difficult, the ethnic link became even more important after 1993: if someone had Hungarian ancestry, then privileged naturalisation was possible after one year of residence. The current simplified naturalisation regulation possesses a strong symbolic character, and it is the first one not based on residency in Hungary or an ethnic link: ancestry and language skills are sufficient to become a Hungarian citizen. ■

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50 KÖRTVÉLYESI (2011) 50.

51 KÖRTVÉLYESI (2011) 49.

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