Designing Legitimate Institutions for Non-Territorial Autonomies. Insights from the Debates within the Hungarian Communities of Serbia and Romania

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Abstract. In this paper, I examine some problematic aspects of minority self-governments, more specifically non-territorial cultural or national-cultural autonomy, through an analysis of the cases of the Hungarian minorities in Romania and Serbia. Although the Hungarian minority élites have put forward demands and plans for various forms of autonomy in both countries after 1990, only one particular form of minority self-government, namely national-cultural autonomy, proved to be acceptable for the majority, and eventually such a system was only implemented in Serbia but not in Romania. The focus in the article is more on the form than on the content of autonomy as the design of the institutions of self-government is of central importance also with regard to the power relations within the imagined political community of the minority. Despite the differences between the legal-institutional systems of minority protection of the two states, the patterns of minority élite behaviour were rather similar in the two analysed cases, the institutional form of the envisaged autonomy becoming a very divisive issue and exerting a strong impact on the internal political dynamics of the minorities.

Keywords: non-territorial autonomy, national-cultural autonomy, intra-ethnic competition, ethnic parties, Hungarian minorities, Serbia, Romania

Introduction

In this article, I examine some problematic aspects of minority self-governments, more specifically non-territorial cultural or national-cultural autonomy, through an analysis of the cases of the Hungarian minorities in Romania and Serbia. Although the Hungarian minority élites have put forward demands and plans for various forms of autonomy in both countries after 1990, only non-territorial or national-

cultural autonomy proved to be acceptable for the majority, other forms, such as ethnically based territorial autonomy¹ or local self-governments with special status, could not make it further than the electoral manifestos of the minority parties. In Serbia, a limited form of national-cultural autonomy has been granted to the national minorities since 2002, and expanded in 2009, when the direct election of the minority national councils was enabled. In Romania, no law on autonomy has been passed yet, but a draft submitted by the main Hungarian party in 2005 has been on the political agenda for a long time, being repeatedly shelved and revived in the 15 years that have passed since it was drafted.

While minority self-government arrangements are usually approached from the perspective of inter-ethnic relations, often in a post-conflict context (something that follows from the still dominant perspective on ethnic politics which treats ethnic groups as compact, homogenous entities), the issue has another very important dimension too, which concerns the internal political dynamics of the minority groups. The institutional design of an autonomy becomes part of the fundamental framework for the internal political affairs of the minorities, setting the rules of the game in a similar fashion to the 'general' electoral regulations that concern the other types of elections. Consequently, the legitimacy and uncontested nature of these institutions is crucial for the smooth functioning of political pluralism and internal democracy of the groups. However, as with any institutional design, there will always be a temptation for actors to shape these institutions according to their own interests, which may lead to democratic deficit and imperfect political pluralism within the imagined political community of the minority.

The Concept of Autonomy

Despite a growing interest in the topic, the concept and types of minority self-governments remain somewhat blurry if not messy. A multitude of concepts occur in the literature such as political autonomy, administrative autonomy, territorial autonomy, non-territorial autonomy, personal autonomy, cultural or national-cultural autonomy, functional autonomy, regional autonomy, corporate autonomy, local autonomy, self-governments with special status, etc., to mention only the more frequently used terms (Suksi 1998: 1–5).

The term 'autonomy' is often used also in broader senses, referring, for instance, to devolution or decentralization without a minority protection component (such as local autonomy, ecclesiastical autonomy, or university autonomy) or to arrangements that are meant to empower minorities yet stop short of providing collective rights

1 The Autonomous Province of Vojvodina in Serbia is regarded as a territorial autonomy, but it is not a 'Hungarian' territorial autonomy as the proportion of Hungarians in the province is less than 15%.

to them.² Here, however, it will be used in a narrower sense, referring only to arrangements designed to offer special protection to *minority*³ groups in society and which recognize and embody the *collective rights* of minorities to self-government. The reason for this is that in the conceptual framework rather consensually shared by the Hungarian minority élites, autonomy unequivocally implies the implementation of the collective right to some sort of self-government.

In this sense, to quote Hans-Joachim Heintze, autonomy means ‘the granting of internal self-government to a region or a group of persons, thus recognizing a partial independence from the influence of the national or central government’ (Heintze 1998: 7). Similarly, Thomas Benedikter (2010) means by autonomy some sort of limited self-rule, which can range from self-administration to complete self-rule just short of independence, and in its strongest form it implies providing for exclusive powers of legislation, administration, and adjudication in certain areas. Benedikter stresses that ‘autonomy in legal terms should be considered as a *group right* as its titular subjects necessarily have to be a *community*’ (Benedikter 2010: 40); this is qualitatively different from the right of freedom of association, which is an individual right (even if it can only be exercised together with others). Eide et al. also consider that ‘the right to self-management, in order to qualify as cultural autonomy, must extend beyond the right or freedom of association as a general civic right’ (Eide et al. 1998: 252), Balázs Vizi (2002) also emphasizes that autonomy is a *collective* right, and as such it requires the acknowledgement of minority groups as *political entities*. Moreover, autonomy has to be *granted* by the state to the minority; it does not follow from the autonomy of the persons as individuals. The subject of autonomy is always a *group*, not individuals. Perhaps this is why autonomy is often regarded as the maximum set of minority rights that can be awarded. As Brunner-Küpper (2002) put it, autonomy is at the top of the minority rights hierarchy and constitutes the maximum legal status a minority may achieve within a state.

Various typologies of autonomies have been elaborated. Heintze speaks about territorial and non-territorial forms of autonomy, and within the latter category distinguishes between personal, cultural, and functional types. The distinctive feature of functional autonomy is rather straightforward: it involves the transfer of competencies, usually on a specialized basis, to organizations of the minority constituted under *private* law. Conversely, the other two non-territorial types usually

2 For such an interpretation on *personal* autonomy, see Suksi (2008). Suksi argues that personal autonomy implies using the freedom of association of individuals as a general civil right by the minorities, that is, establishing associations under private law, which will deal with issues of importance to the group. In his account, this is something completely different from cultural or functional autonomy (that is, a form of self-government granted to a group, through special legislation, under public law). Although it does not preclude, it does not imply either that the state should transfer public competences or powers to these private law legal persons. A similar interpretation of personal autonomy is put forward in Tkacik (2008). For a discussion of arrangements for which the use of the term ‘autonomy’ is highly questionable, see Osipov (2013).

3 The italics throughout the following paragraphs are mine.

(but not necessarily) involve some organization or body constituted as a *public* law entity.⁴ Benedikter distinguishes between three types: territorial, personal/cultural, and administrative/local autonomy. Territorial autonomy refers to a geographical area that is granted competences in various domains and usually requires the presence of a ‘titular community’, settling in a geographically concentrated form. Personal or cultural autonomy is normally granted to communities living dispersed and involves the transfer of competences only in areas that are crucial to the survival of the group in ethno-cultural terms (culture, education, media, etc.). Administrative/local autonomy (with an ethnic basis) is suitable when members of minorities reside in isolated dispersion and form the majority of the population only in some administrative units. It is generally an expression of decentralization and implies the delegation of certain powers but does not include any legislative power exercised by locally elected bodies. It is a special form of territorial autonomy, limited to a smaller territory and to smaller administrative powers (Benedikter 2010).

Despite the multitude of terms and the debates about the precise features of each type of autonomy, there is consensus in the literature that autonomies can be created basically on two principles: the subject of autonomy can be either a *territory* or a *group*. In the former case, everyone living on that territory will fall under its jurisdiction, whereas in the latter case only the members of the group, but establishing who is a member is often a delicate issue.

While with regard to territorial autonomy there are no significant terminological issues, this is not true for non-territorial variants. Most importantly, the term *personal* autonomy is used with multiple and very different meanings. The first meaning, as already mentioned, simply refers to the autonomy of the individual and to the universal rights derived from this (including the freedom of association). In this case, we cannot speak about autonomy in the sense discussed above. In order to avoid confusion, it would perhaps be more correct to talk about *autonomy on personal principle* instead of the more confusing *personal autonomy*.

A further confusion stems from the fact that similar arrangements are often referred to either as *cultural* autonomy or as *personal* autonomy, and so the relation between these terms needs to be clarified. The point is that two different classification dimensions are mixed here. The distinction between *territorial* and *personal* autonomy (or autonomy on the personal principle) is based on the principle of determining the *subject* of autonomy. Conversely, *cultural* autonomy refers to the *content* of the transferred competencies or the scope of self-government. However, empirical experience shows that autonomies organized on the personal principle are most often confined to competencies regarding cultural matters (including religion and education), while additional political competencies are only to be seen in territorial arrangements. Although autonomies based on the personality

4 Unfortunately, in Heintze’s (1998) account, the difference between personal and cultural autonomy is not sufficiently developed.

principle may be endowed with other competencies too (social sphere, policing minority institutions or events, etc.), this is rather the exception than the rule (Brunner-Küpper 2002). Thus, cultural and personal autonomy are most frequently overlapping categories in practice, even if the labels themselves are derived from two different classification dimensions. In order to avoid this confusion and to increase conceptual clarity, more recently, the terms *non-territorial autonomy* and *national-cultural autonomy* seem to gain the upper hand in the literature.⁵ As a consequence, I will use these latter terms interchangeably in the article, referring to ‘the right to self-rule, by a culturally defined group, in regard to matters which affect the maintenance and reproduction of its culture’ (Eide et al. 1998: 252).

Autonomy, Internal Democracy, and Legitimacy

With both the territorial and national-cultural types of autonomy as defined above, a condition for the realization of self-government is the existence of a representative organ recognized as legitimate by both the state and the group concerned (Heintze 1998), which is usually a public law legal entity. Competencies may be transferred to a single body representing the minority or to more, functionally specialized organizations, but whatever the entity exercising self-rule might be,

there is always the question of whether the entities can legitimately speak for and represent the minority. In this respect, internal democracy is important to prevent the minority organizations from monopolizing minority issues and thus violating the individual rights of the minority members who may wish to exercise their rights of individual self-determination not only against the state and the majority institutions but also against the institutions of the minority. (Brunner-Küpper 2002: 19)

Various arguments can be found in the ethnopolitics literature for the importance of internal democracy, intra-ethnic organizational pluralism, and political competition within minority communities. Some point out possible consequences regarding the imperfections of democracy only with regard to the community itself, while others are concerned for the consequences on the polity as a whole. Of course, in practice, these considerations are relevant primarily in the case of large minorities such as the Hungarian communities discussed in this study.

Daniel Bochsler points out that if the plurality of political options that is taken for granted for the ethnic majorities is denied to the minority, then representativeness, accountability, and democratic control all fall short of democratic standards (Bochsler

5 See, for instance: Malloy-Palermo (2015), Malloy et al. (2015), Nimni (2007), Smith (2011), and Prina et al. (2018).

2007). According to George Tsebelis, when vote transfers across ethnic lines are limited, in the absence of intra-ethnic competition, a minority party in hegemonic position can sell virtually any platform to the community it claims to represent. Thus, the lack of pluralism may also have negative consequences for the performance and the accountability of the ethnic parties because if a party does not have to compete with others but gets re-elected easily, then it will have fewer incentives to achieve (Tsebelis 1991: 164–171). Others make even stronger arguments, considering that the political rule within minority groups may become authoritarian if there are no agreed mechanisms to select political leadership (Vizi 2002: 43).

But intra-ethnic dynamics are also interesting from the perspective of democratic stability, through their influence on inter-ethnic relations. The literature has been long dominated by the so-called *outbidding* thesis, which predicts that intra-ethnic competition leads to a spiral of radicalization and eventually to the deterioration of democracy (Rabushka–Sheplse 1972, Horowitz 1985). However, more recently, the body of evidence proving that outbidding is not the only possible outcome has been growing (e.g. Coakley 2008, Mitchell et al. 2008, Zuber 2013, Bochsler–Szócsik 2013). A very useful way to analyse the interaction of intra- and inter-ethnic dynamics is to view minority élites as being involved in what could be called a *nested game* (Tsebelis 1991). This means that ethnic minority élites ‘play a game’ within the minority and another one across ethnic group lines, and their payoff structure depends on both arenas. As Tsebelis points out, leaders face the following dilemma: if they demonstrate commitment to a less compromising position, that may rally support from their ethnic constituents, but at the same time it decreases the chance of agreements with the élites of the other groups (the majority). On the other hand, compromising too easily in the inter-ethnic bargaining game has a negative impact on the acceptance of the deals within their own constituency and opens up the floor for challenges from rival élites (Tsebelis 1991).

In what follows, I will attempt to interpret the developments related to the minority self-government claims of Serbia’s and Romania’s Hungarian minorities in this nested game framework. The main argument is that against the background of intra-ethnic disagreements about the design of self-government institutions the strongest minority élites tried (and to a considerable extent were able) to use the process of institutional design to reinforce their position within the community even at the price of unfair and insufficiently democratic arrangements. Of course, no autonomy arrangement can be implemented solely by the minorities themselves, without the approval of a majority in the national parliament, but majority political élites were open to such (and only such) designs because the ‘consolidation’ of the ‘moderate’ minority élites was their interest too.

The Issue of Hungarian Self-Government in Romania and Serbia

The Hungarian minority élites of both Serbia and Romania have put forward demands and plans for various forms of autonomy in both countries after 1990, obtaining autonomy being rather consensually regarded as an overarching political goal and a vision for the future of the minority community. In Serbia, a limited form of national-cultural autonomy has been introduced in 2002, and a new law has been adopted in 2009, somewhat expanding the competencies of the national councils of the minorities and introducing the possibility of their direct election. Although in 2014 several articles of the law were declared unconstitutional, the essence of the system remained in place. Conversely, in Romania, no autonomy has been codified as yet, but a draft law that would create some limited form of self-government in cultural affairs was submitted to the parliament in 2005 and remained on the political agenda for a number of years, being repeatedly shelved and revived. This bill, drafted by the strongest Hungarian ethnic party (the Democratic Alliance of Hungarians in Romania – RMDSZ), has been endorsed also by the governing coalition of the time (and on the declarative level also by some subsequent cabinets), and as such it is the only proposal for autonomy that had non-zero chances of being adopted; consequently, its provisions concerning the institutional design of a would-be minority self-government are worth examining in detail.

The content of self-government granted by both the Serbian law and the Romanian bill is rather limited, and so the arrangements they (would) create fall unequivocally short of self-rule, as no legislative powers are transferred to these institutions, but would amount to some degree of self-administration. The competencies of the National Minority Councils of Serbia and of the envisioned councils of national-cultural autonomy in Romania are mostly of consenting or consultative nature, the possibility to initiate legislation being almost completely absent. Nevertheless, the Serbian councils obtained some important competencies with regard to the management of institutions in the domains of education, culture, and mass media, including the right to establish institutions and to appoint members to the leadership or boards of these ethnic institutions (Zuber–Mus 2013). Even though some of these were removed by a Constitutional Court ruling (Beretka–Székely 2016), the Hungarian National Council (Magyar Nemzeti Tanács – MNT) was able to establish a strong control over the minority institutional network, including mass media in the vernacular language. The Romanian bill would have created similar opportunities with regard to the Hungarian institutional network in Transylvania.

However, the focus of the paper is not on the scope or content of the autonomy (on the competencies) but rather on the (proposed) design of the political institutions of the self-government. Such institutional design may have serious consequences on the future internal political dynamics of the minorities as it becomes part of the

framework for both political competition and cooperation within the minorities (even if the regulations concerning general elections are equally or perhaps even more important). In nation-states, this ‘capsule of competition’ – to use the term coined by Stefano Bartolini (1999) – is decided in a cooperative and negotiated way by the political parties. The Italian author adds that in order to ensure the functioning of democracy, this capsule of political competition must not be undermined and must not become the object of political competition, except for the exceptional periods of institutional design. However, as opposed to the electoral legislation in force for all competitors regulating ‘general’ electoral participation, this set of rules will be regarded as the minority’s own arena of competition and as such will have significant symbolic and discursive consequences too within the public sphere of the community. Furthermore, the shape of the bodies of autonomy matter not only for competition but also because they should act as the representative bodies of the group outwards, which requires that the various parties or factions of a specific minority be ready to cooperate within this framework, at least in issues about which they agree – at least at a rhetorical level – that are of ‘national interest’ for their group. However, in both of the cases analysed here, no consensus about this capsule of competition could be reached. Despite the agreement that autonomy is a supreme goal for the community, the Hungarian élites in both Serbia and Romania were unable to agree on the technical details of the arrangement, most importantly about the organizations that can participate (field candidates) in the elections of the bodies of autonomy, about how the electorate should be delimited, and about the organization and supervision of the elections. These aspects have serious consequences on the contestability of elections, and as such on the internal democracy of the minorities, but can also affect the overall quality of democracy in a polity.

Therefore, I will analyse the consequences of the institutional design on the quality of the internal democracy of the minorities, and I will also contrast the arrangements with the (previously advocated) conceptions or visions of the various competing parties, or élites, standing for the same minority. In both countries, I only deal with the Hungarian minorities for two reasons: first, they are the largest minority, and, second, the main driving forces behind the drafting of legislation on cultural autonomy were the Hungarian élites.⁶

Before turning to the analysis of the (proposed) self-government institutions, I provide some basic information about the two minority communities, and then I discuss briefly the relevant Hungarian political parties. Although the development

6 The account is based on the analysis of the legal documents, the original texts of the autonomy conceptions, newspaper articles, and, in the case of Vojvodina, on interviews I conducted with the leaders of the local Hungarian parties in the period of November–December 2010. The sources of the autonomy conceptions for Vojvodina are Bárdi-Éger (2000), the newsletter of the political party Vajdasági Magyar Demokrata Párt. For Romania, the collection of autonomy conceptions is available at: <http://adatbank.transindex.ro/belso.php?alk=48&k=5>.

of the minority party scenes is a very insightful process, the presentation will be limited here only to those aspects that are absolutely necessary for understanding the debates about autonomy, a detailed discussion not being possible due to space considerations (for details, see Székely 2014).

The Hungarian Minorities of Serbia and Romania

The Hungarian community of Serbia numbered about 300,000 people at the 2002 census, representing 3.91% of the population of Serbia (without Kosovo) and 14.28% of the population of the Autonomous Province of Vojvodina. At the 2011 census, the figures decreased considerably, to approximately 254,000 (3.5%). Over 98% of the Hungarians live in Vojvodina, and in the northern part of the province there are eight municipalities where they form an absolute or a relative majority. However, the autonomy of Vojvodina (which is a very contentious topic itself, not without consequences on the interethnic relations in Serbia) will not be discussed here but only the non-territorial autonomy of the Hungarians embodied in the MNT.

The Hungarian minority of Romania numbered around 1.42 million people in 2002 (6.67%) and 1.23 million in 2011 (6.1%), the vast majority of them living in Transylvania, where their share is slightly below 20%. Almost half of them live in a compact Hungarian-majority area in the centre of the country, called Szeklerland (Székelyföld), but there are important Hungarian-majority areas also in the vicinity of the border with Hungary, and significant communities live in urban diasporas or in mixed rural regions in central Transylvania.

The Hungarian Parties of Vojvodina

In the first few years after 1990, the Hungarians in Vojvodina had a single political organization, but by the turn of the millennium the party scene was already very fragmented, with multiple ethnic parties competing against each other. Moreover, voting across ethnic lines has been a significant phenomenon from the very beginning (in the early years, about 60–80% of the Hungarians voted for the single Hungarian party existing by that time, while around 2000 the joint support of all the Hungarian parties fell short of the majority of the ethnic group).⁷ In the period that is most relevant from our perspective (1999–2010), there were three relevant and a number of very small, rather insignificant Hungarian parties in Serbia, but already throughout this period one of the organizations was able to secure a quasi-hegemonic position, which it still holds today.

7 Author's own estimation based on electoral results, turnout, and the share of the Hungarian population.

The first organization was created in 1990 and was called Vajdasági Magyarok Demokratikus Közössége (VMDK – Democratic Community of Hungarians in Vojvodina). Although VMDK did not define itself as a political party but as a ‘political interest organization’, it also performed party-like activities, most importantly the political representation of the community (Mirnics 2000). This self-definition was the consequence of the idea that multi-party politics within the Hungarian minority would only make sense after the creation of the institutions of a Hungarian ethnic autonomy. The primary goal of VMDK was to obtain autonomy for the Hungarian community by petitioning the international community and relying on the support of the kin-state while refusing almost completely to integrate into the Serbian party system and to cooperate with the Serbian parties. However, after a while, the local branches of the organization were growingly displeased with this strategy of being ‘the opposition of the opposition’,⁸ which led to political isolation and cut them off from all resources. On the background of these tensions, VMDK split in 1994/1995, and the newly created organization, called Vajdasági Magyar Szövetség (VMSZ – Alliance of Vojvodina Hungarians) was able to take over most of the local branches and public office holders. As the split coincided with a government change in Budapest, VMDK also lost control over the financial aid received from Budapest, being transformed in less than a year from a hegemonic party into a party with very limited resources struggling for survival. One year later, the remainder of VMDK underwent a second split over leadership conflicts and the issue of how to relate to the VMSZ. At the end of the day, the founding president of VMDK lost the battle for the party label in court and created his own party in 1997, called Vajdasági Magyar Demokrata Párt (VMDP – Hungarian Democratic Party of Vojvodina).

Despite the emergence and disappearance of a series of other small Hungarian parties since the split of the original VMDK from 1997 to the early 2000s, the Hungarian party scene of Serbia has been defined by the struggle between these three parties. VMSZ became clearly the strongest party at the 1997 general elections, while VMDK and VMDP were able to maintain some local strongholds but were in constant decline. In the period of the creation of the institutions of the Hungarian self-government (2002–2010), the balance of powers between the three parties was approximately 80-10-10% in favour of VMSZ.

Hungarian National-Cultural Autonomy in Vojvodina

All three parties that could be considered relevant in the period leading to the formation of the MNT defined themselves as autonomists and have elaborated numerous autonomy conceptions in the previous years. Thus, there was a perfect

8 Interview of the author with András Ágoston, first President of VMDK, Temerin, 1 December 2010.

consensus among these political élites that the autonomy of Hungarians is a supreme goal, but at the same time the parties have been engaged in a fierce competition of the valence type with each other for the image of the most competent and efficient actor that can bring about the desired self-rule.⁹ VDMK and especially VMDP have been accusing VMSZ of having deserted the case of autonomy for the sake of being accepted as a legitimate partner by Serbian mainstream parties, while VMSZ retorted that the two small parties were loud but unable to act.

Despite the agreement about the goals, reaching a consensually endorsed autonomy conception proved to be a difficult task. In 1999, with the mediation of the Hungarian government, the three parties came close to harmonizing their autonomy conceptions, but VMDP walked out in the last moment. Based on this agreement, VMSZ and VMDK created the provisional Hungarian National Council (MNT),¹⁰ a body intended to be the precursor of the institutions of national-cultural autonomy, until those would be created through law. This Council was rather a statement of purpose than a real autonomous structure as it operated without any legal basis until 2002, when a federal law on the rights of national minorities¹¹ allowed the creation of national minority councils with competencies in the fields of education, culture, mass communication, and use of minority languages. A second and more important agreement was reached in 2008, before the general elections, when VMSZ, VMDK, and VMDP were also able to agree on an electoral alliance called Magyar Koalíció (MK – Hungarian Coalition). Although both documents are very important – the first paved the way for the creation of the provisional MNT, and the second served as the basis for the law on the national councils of minorities adopted in 2009¹² –, none of the agreements proved to be durable and was unable to settle the framework for the competition and cooperation of the Hungarian parties.

The most contentious aspect of the national-cultural autonomy arrangement has been the method of election. The debate was about whether the national council should be elected directly or by electors delegated by the parties and other organizations and who should vote and field candidates in the case of direct elections. The first two autonomy conceptions were elaborated still during the existence of the original VMDK. Later, three other documents were drafted by

9 Valence issues involve some condition that cannot be ordered on a spatial continuum (for instance, government intervention in the economy, which can range from minimal to controlled economy) but are regarded as good or bad by the electorate in general. The point is that such issues are linked to the parties in different ways. The classic example for valence issues is corruption. No party would campaign for more corruption, and all voters would agree that corruption must be fought. However, some parties may be associated more with corruption than others, and some parties may claim more credibly that they will fight corruption. For details, see the seminal article of Stokes (1963).

10 Another small party, the Vajdasági Magyar Polgári Mozgalom (Hungarian Civic Movement of Vojvodina), also participated, but soon it merged with VMSZ.

11 Law on the protection of rights and freedoms of national minorities (2002).

12 Law on national councils of national minorities (2009).

VMSZ and one by VMDP.¹³ Direct elections based on a separate electoral roll were a defining feature of the conceptions elaborated by the original VMDK and VMDP, while VMSZ initially wanted the council to be formed through indirect elections or even delegation by existing parties and NGOs. It was only in the joint document of 1999 that VMSZ embraced the idea of direct elections into its conception; however, as already mentioned, this happened as an attempt to synchronize the document with the vision of VMDP.

The 1999 joint document of VMSZ and VMDK also foresaw that the first direct elections for the MNT would take place after the majority of those who voted for the Hungarian parties at the 1997 general elections had registered to an electoral roll. However, the compilation of this roll never began, and the 2002 law and the ministerial decrees issued in relation to it provided for an indirect election method, through electors. Electors could be all the MPs of the Hungarian parties in the federal, national, and provincial assemblies as well as the parties' representatives in the assemblies of the municipalities where the minority language is in official use. Besides, all NGOs of the minority could delegate one elector each, and any citizen could become an elector if supported by at least 100 other co-ethnics.¹⁴

VMDP did not change its position after the passing of the 2002 law and criticized VMSZ for accepting indirect elections. Soon, also VMDK withdrew from the now legalized MNT for the same reasons. Naturally, the small parties were not concerned only with legitimacy and the quality of internal democracy but rather with the fact that they perceived that indirect elections consolidated the hegemonic position of VMSZ as the number of VMSZ members elected into public office considerably outnumbered their own people. VMSZ argued that there was nothing unjust in the system, as there was also the possibility of nominating electors with citizen support, and charged the small parties with voicing their grievances only in order to conceal their inability to garner any support. Finally, the constituting assembly of the MNT was conducted with 615 electors, 350 being delegated by citizens (Korhecz 2004).¹⁵ Consequently, the smaller parties did their best to merge the MNT with VMSZ, which was not beneficial for the legitimacy of an institution meant to function above the political parties as a framework for their competition and cooperation.

The attacks against the MNT citing arguments of legitimacy further intensified after 2006 because the mandate of the council expired but the Serbian parliament failed to pass the promised new law, and no new elections could be organized before this

13 Except for the document of VMDP, which concentrates exclusively on national-cultural autonomy, all other conceptions contain sections about other types of autonomy too (territorial, local governments with special status, the autonomy of Vojvodina), envisaged as further 'pillars' for settling the status of Serbia's Hungarians. See Korhecz (2004).

14 Regulation on the activity of electoral assemblies during the elections of national councils of national minorities (2002). See also Korhecz (2004).

15 Also, interview of the author with László Józsa, President of MNT between 2002 and 2010, Subotica, 3 December 2010.

happened. This legitimacy vacuum eventually led to the second interparty agreement on autonomy, which was signed in 2008 by VMSZ, VMDK, and VMDP.¹⁶ This joint autonomy conception was basically a collage of the autonomy types considered to be the most important by each of the parties, and it also contained a demand for reserved seats for the minorities in the national and provincial assemblies, proportional to their share in the population. The key to the agreement was that each party accepted to include and endorse also those autonomy types that were regarded as important by the other signatories.¹⁷ The part on national-cultural autonomy is the most elaborate in the document, which drew heavily also on the older conceptions of the VMDP. The MPs of the MK negotiated the new law on the national councils based on this draft document.

In 2009, the Serbian parliament finally passed the new law, allowing for the direct election of the national councils. The adoption became possible mainly because the minority MPs (among them the four representatives of the MK, all of them from VMSZ) found themselves in a pivotal position in the Serbian parliament. Despite the provision for direct elections, VMDP and VMDK were again discontent with the outcome and accused VMSZ of accepting a very watered-down version of the original draft, contained in the protocol of the MK. The two small parties criticized especially three aspects of the law: the lack of real competencies, the method of compiling the special electoral roll, and the fact that not only minority ethnic parties but also NGOs were allowed to field candidates.¹⁸

VMDP and VMDK demanded that the electoral roll should be compiled by the state authorities, according to a passive registration logic (the ministry of interior publishes the roll based on the population records, and everyone who does not want to be part of it has the opportunity to ask to be removed). They argued that the national councils would lack legitimacy unless all or, at least, the vast majority of the members of the minorities would be able to vote. However, the Serbian authorities refused to compile the roll, pointing out that 1) they did not have the necessary information regarding the ethnic belonging of citizens, and 2) the OSCE did not endorse this method in its recommendations (Váradý 2009). Consequently, citizens had to register personally. The law established that the national councils could only be elected directly if the electoral rolls contained the names of more persons than 50% of the number of those who declared themselves as being members of the respective national minorities at the 2002 census, decreased by 20%.¹⁹ Otherwise, a slightly modified version of the old indirect method has to be employed.

16 Later, two other small and more radical parties also endorsed the document: Magyar Polgári Szövetség (Hungarian Civic Union) and later also Magyar Remény Mozgalom (Hungarian Hope Movement).

17 Interview of the author with VMDP President András Ágoston, Temerin, 1 December 2010.

18 Interviews of the author with András Ágoston and Áron Csonka (President of VMDK since 2010), December 2010.

19 The 20% decrease is meant to approximate the size of the voting-age population based on the census figures.

However, the authorities soon realized that with this method of registration the threshold cannot be met until the set deadline (six months), so the Ministry for Human and Minority Rights allowed registration also by mail. This basically meant green light for the parties to start a door-to-door campaign to gather signatures, and it sparked lots of controversies. The small parties protested again as they felt disadvantaged, lacking the infrastructure and the activist base for a large-scale enrolment campaign. They also charged VMSZ of illegal database building and mishandling of personal data.²⁰

The possibility of NGOs to field candidates in the elections was perceived by all the Hungarian ethnic parties (including VMSZ) as a back-stair for the mainstream non-ethnic parties, especially the Democratic Party (Demokratska Stranka – DS), to participate in the elections for the national councils and obtain influence in them. While VMDP and VMDK were more concerned about the legitimacy and independence of the council from Serbian influences at the general level, for VMSZ, the election became a battle primarily against the DS.²¹ Eventually, in the Hungarian case, the DS was unable to obtain control over the national council, but this did occur in the case of other minorities.

As the law on the national councils was not modified until the elections for the MNT, which took place in June 2010, VMDP and VMDK decided to boycott the elections. Two other small ethnic parties were also very critical but eventually accepted the rules of the game and competed in the elections, obtaining one seat each out of the 35. The list submitted by VMSZ (tellingly called ‘Magyar Összefogás’, meaning Hungarian Cooperation, containing party members and civil society representatives in a fifty-fifty proportion) won 28 seats. Four seats were won by the NGO Humentis backed by DS and one by an NGO backed by the League of Social Democrats of Vojvodina. The MNT continued to be criticized by VMDK and VMDP, the latter claiming not only that it was illegitimate (because not all ethnic Hungarians have been registered to the roll) but also illegal (because of the abuses committed during the registration process). This discourse was not abandoned even despite the fact that the government of Hungary recognized the directly elected MNT as a very important advancement in the situation of the Hungarian minority in Vojvodina.

20 It must be mentioned that even more serious abuses were reported in the case of other minorities of Serbia. Serbia's Ombudsman established in an investigation published on 6 December 2010 that abuses were committed during the enrolment campaign and recommended that the law be amended so that only authorized persons should be able to register the citizens to the electoral rolls outside the premises of the state administration and so that these persons should be legally sanctioned in case of abuses committed during their activity. It is noteworthy that the Hungarian-language press (controlled by the MNT) did not publish the opinion of the ombudsman; it could only be found online within the comments to newspaper articles or on the Facebook profiles of some of the leaders of the small parties, e.g. here: http://hu-hu.facebook.com/note.php?note_id=145958328796654.

21 Interview of the author with then VMSZ Vice-President Zoltán Dévavári, Subotica, 30 November 2010.

Looking back to the earlier autonomy conceptions of the parties, the striking aspect is that none of the documents elaborated by either VMDK or VMDP explicitly stated that registration to the special electoral should be passive or automatic. The first VMDK document from 1992 clearly envisaged active registration, just like VMDP's conception from 1997 (parts of which were also included into the agreement of 1999). The 2008 joint document of the MK stated that the roll will be considered operational if at least 50% of the members of the Hungarian community are registered to it, as compared to the last census. Consequently, this can hardly refer to passive registration either because in such a case the situation would imply a countback from 100%. Moreover, if the two small parties agreed in 2008 that registering half of the ethnic Hungarians to the roll is sufficient, it is difficult to understand why they could not accept the same conditions two years later. Finally, it should be mentioned that a similar, or even more partial, conception of the electoral roll was accepted by VMDK (though not by VMDP) in 1999 as the condition for creating the provisional MNT in the 1999 joint document that referred not to 50% of Hungarians at the census but to 50% of those who voted for Hungarian parties in 1997, which is obviously a considerably lower number.

After 2010, VMSZ further consolidated its hegemonic position within the Hungarian community, helped in this endeavour by its ability to control the MNT. Both VMDK and VMDP declined further, the former faring perhaps somewhat better than the latter. VMSZ was able to maintain its domination over the MNT at the subsequent elections too. The strategy of fielding Hungarian Cooperation lists was continued by the party both in 2014 and 2018, yielding 31 and 30 seats, respectively, of the available 35. In 2014, VMDK gave up the boycott and obtained two seats, while the lists of the DS and of the League of Social Democrats obtained one seat each. VMDP did not run for the MNT so far, but before the 2016 general elections they signed an electoral coalition with VMSZ, which secured their further survival at the local level, brokered most probably by the government of Hungary.

In 2015, a seemingly major split shook VMSZ, which broke out precisely because some MNT members, including the former president of the body, Tamás Korhecz, were struggling to decrease the control of VMSZ over the bodies of Hungarian self-government. Eventually, the faction supporting Korhecz was pushed out of VMSZ. Although this break-away group posed a significantly greater potential for becoming a serious challenger to VMSZ than all the other Hungarian parties that existed after 1997, VMSZ successfully survived the crisis. While the newly created organization, Magyar Mozgalom (MM – Hungarian Movement) is still active and successfully overshadowed the 'old' small parties, it failed to achieve an electoral breakthrough. One reason for this was that VMSZ pacified the former MNT president by nominating him to the Constitutional Court of Serbia, thus removing a potentially charismatic opposition leader (Purger 2016). At the 2018 MNT elections, MM obtained 5 seats,

being the only other list able to run besides the one sponsored by VMSZ. VMDK failed to gather the support of 1,500 voters necessary for fielding a list.

The Hungarian Parties of Romania

The Hungarian minority in Romania succeeded to maintain a single representative organization from 1990 to 2003, Romániai Magyar Demokrata Szövetség (RMDSZ – Democratic Alliance of Hungarians in Romania), which is still the strongest Hungarian party in 2020 and the only one that has ever been represented in the Romanian parliament since the collapse of the communist regime. Similarly to VMDK, RMDSZ started with a mass movement character, and it is not registered as a political party even today but as an NGO. This, however, does not mean that it does not operate as a political party, and it gradually lost its movement character, especially since it became part of the governing coalition in 1996 (and, subsequently, it was part of a number of further coalitions too or has provided parliamentary support to them).²² RMDSZ has been divided internally from the very beginning – at the price of gross simplification – between a more radical autonomist wing and a more moderate or pragmatic group which held that minority rights can only be secured through compromises with the majority.

At the third congress of RMDSZ in 1993, a new organizational form has been adopted, called the ‘self-government’, or the ‘state’ model. The background idea was that the Hungarian minority in Romania should be considered a full-fledged society and a self-standing political community, and in the absence of officially recognized autonomy RMDSZ should transform into some sort of an informal substitute for a self-government. Consequently, the new organizational form has been modelled after the institutional build-up of states, following the principle of the separation of powers. A council of representatives has been set up, envisaged as an internal parliament, to be elected through ‘internal elections’, and the already existing ideological groupings have been formally recognized as platforms, so they could continue their activity in a similar manner to parliamentary groups (Bakk 1999, Toró 1998).

Although after a solemn declaration of autonomy in 1992 and the adoption of the ‘state model’ the autonomist wing seemed to gain momentum, the distribution of power slowly but constantly shifted in favour of the pragmatic wing. First, after the signing of the bilateral treaty between Hungary and Romania in 1996, it became obvious that the autonomists could count on less support for their efforts from the kin-state. Second, one condition for being part of the power coalitions in Bucharest after 1996 was to shelve the issue of autonomy.

The decision to join the government for the first time, in 1996, was a very controversial one itself because, according to the statute of RMDSZ, this should have

22 On the dual nature and development of RMDSZ, see Kiss—Székely (2016).

been decided by the previously mentioned council, but in reality it was decided by the central executive and only later submitted to the internal parliament for ratification. This was already indicative of the limits of the 'state model', showing that RMDSZ was unable to function as a genuine self-government. As already mentioned, the council of representatives should have been selected through internal elections, at which any ethnic Hungarian could participate if registered in a special electoral roll. However, the idea of setting up the special roll has been abandoned after joining the government, and internal elections have been repeatedly postponed. This finally led to irreconcilable tensions within the RMDSZ and eventually to a split in 2003.

The most important RMDSZ platform was Reform Tömörülés (RT – Reform Group). Though formally not their leader, Reformed Bishop László Tőkés, the hero of the 1989 events of Temesvár (Timișoara), who had also been acting as the Honorary President of RMDSZ since 1993, was on a common platform with this group concerning the primacy of autonomy and a less compromising strategy. In 2002, Tőkés sued the RMDSZ for the repeated failure to organize the internal elections. The RMDSZ congress held in 2003 responded by stripping him of his function, though he was not excluded from RMDSZ. As a consequence, the RT platform disbanded itself, and, although not all of its members left RMDSZ immediately, they began to build up alternative organizations.

These new organizations can be classified into two categories. The first category consists of Erdélyi Magyar Nemzeti Tanács (EMNT – Hungarian National Council of Transylvania) and Székely Nemzeti Tanács (SZNT – Szekler National Council), the latter being created initially as a department of the former for the Szeklerland region but which soon became independent from it due to leadership conflicts. These organizations were not intended to be political parties. Instead, EMNT was conceived in a similar spirit as the self-government model of RMDSZ, as a precursor to the council of a future autonomy. However, it was obvious from the beginning that in this quality it would fail as RMDSZ obviously refused to recognize it as such, even if some RMDSZ members individually participated in the actions of EMNT of promoting the goal of autonomy.

A third organization, Magyar Polgári Szövetség (MPSZ – Hungarian Civic Alliance), created in 2003, was intended from the beginning as a vehicle for participating in the elections. However, the organization was unable to run at either the local or the parliamentary elections of 2004, partly due to their own mistakes but primarily due to the very restrictive rules regarding the registration of both political parties and minority organizations passed shortly before the elections (and endorsed by the RMDSZ in parliament).²³ Consequently, MPSZ candidates

23 Electoral legislation in Romania distinguishes between political parties and organizations of persons belonging to national minorities. In 2004, electoral legislation was changed to create extremely difficult conditions for registering new minority organizations while consolidating the position of those that were already represented in parliament. In the case of minorities that

attempted to run on the lists of a small mainstream party, but this effort proved to be a complete failure as ethnic Hungarian voters refused to endorse a Romanian party label. In contrast to Serbia, ethnic voting among the Hungarians in Romania is more pronounced: 90-95% of the Hungarian electorate turning out to vote has been supporting ethnic organizations since 1990 (Kiss–Székely 2016).

The organization was eventually registered in 2008, but not as a minority organization but as a political party, under the label Magyar Polgári Párt (MPP – Hungarian Civic Party). At the local elections of that year, it obtained only around 15% of the Hungarian votes nationwide, but in the Szeklerland region their result exceeded 30%. After failed negotiations with RMDSZ for running together in the parliamentary elections of the same year, MPP decided not to field its own candidates but to back a few independents, which led to a complete electoral failure for them. The results of MPP in 2008 were relieving for the RMDSZ because one year earlier László Tőkés won a seat in the European Parliament as an independent candidate, obtaining about 40% of the Hungarian votes. In 2009, Tőkés was offered the first position on the RMDSZ's ticket, which eventually returned three seats. However, this coalition and the failed negotiations between MPP and RMDSZ in 2008 brought to the surface serious conflicts within the opposition of the RMDSZ, most importantly between Tőkés and the MPP leadership. As a consequence, Tőkés and EMNT decided to register a third Hungarian party, which came into being in 2011 under the label Erdélyi Magyar Néppárt (EMNP – Hungarian People's Party of Transylvania).

Both MPP and EMNP were backed by Hungary's Fidesz, and, after the latter returned to power in Hungary in 2010, even the system of financial subsidies was reshaped to empower them (especially EMNP) against RMDSZ. However, in 2012, neither MPP nor EMNP was able to deliver the electoral results expected by their sponsor in Budapest; consequently, a gradual rapprochement began between Fidesz and RMDSZ in 2013/14, and in 2016 even an electoral alliance was brokered by Fidesz between RMDSZ and MPP, though EMNP could not be persuaded to join. The two small parties continue to function (and are preparing to contest the elections of 2020 in an electoral alliance, which can possibly develop into a merger), but the

are so large that 15% of their membership exceeds 25,000 persons (basically the Hungarians and the Roma), a minority organization can only be registered with 25,000 signatures coming from 15 counties plus Bucharest, but no less than 300 signatures from each county. Later, another criterion has been added for the parliamentary elections, namely that minority organizations that wish to compete in the elections must be of public utility. This qualification can be obtained after fulfilling a series of conditions, of which the most important is three years of uninterrupted activity. These conditions were of a comparable difficulty with the conditions for registering political parties adopted in 2003, requiring 25,000 signatures from 18 counties plus Bucharest, and no less than 700 signatures from each county. Only for the sake of illustration: in Serbia, until 2009, a political party could be registered with only 100 signatures. Since 2009, 10,000 are needed, but for the parties of minorities a special rule is applied, requiring only 1,000. The rules on the registration of political parties in Romania were considerably relaxed in 2015 (since then, three members suffice to register a party), but those on minority organizations remain in force.

threat of intra-ethnic challenge that RMDSZ was facing in the late 2000s is clearly of the past. However, the bill on non-territorial autonomy, drafted by RMDSZ in 2004–2005, to the discussion of which I turn now, has to be interpreted in the context of this threat of RMDSZ being displaced as the hegemonic Hungarian organization.

Hungarian Personal Autonomy Conceptions in Transylvania

It has already been mentioned that RMDSZ defined itself during the 1990s not only as the single representative organization of the Hungarians in Romania but also as their provisional self-government, based on internal democracy and internal elections (the ‘state’-model). Similarly, EMNT tried to revive the idea of a provisional self-government, but with even less success, and eventually founded yet another political party.

The autonomy conceptions elaborated by the Hungarians in Romania can be grouped into two phases.²⁴ While trying to function also as a provisional self-government, RMDSZ sponsored the elaboration of various draft autonomy conceptions. Between 1991 and 1995, a number of competing conceptions have been elaborated by experts working for RMDSZ, but eventually none of these was officially endorsed by the organization. Only one draft has been submitted to parliament, at the end of 1993, but it was never discussed by the legislative powers. After the co-optation of RMDSZ into the government in 1996, the issue of autonomy has been set aside. A second phase of drafting autonomy conceptions began after the party split of 2003. In this period, commissioned by the RMDSZ’s opposition, some of the earlier drafts were reworked, and new ones were elaborated. One of these has been submitted to parliament too by MPs elected as RMDSZ members, who became leaders of its opposition in the meanwhile (at the request of the SZNT), but it was rejected as only RMDSZ members voted for it. This bill, however, only referred to the territorial autonomy of Szeklerland and contained no provisions about non-territorial or national-cultural autonomy.²⁵

Due to the emergence of intra-ethnic challengers, RMDSZ was forced to enter into a competition of the valence type very similar to the one discussed in the case of the Vojvodina Hungarians.²⁶ As part of this process, RMDSZ elaborated a bill on the rights of persons belonging to national minorities in 2004/2005, which also contained a section on national-cultural autonomy that would be materialized

24 Arguably, there is a third phase too: in 2014, RMDSZ published a draft statute for the territorial autonomy of the Szeklerland, closely modelled after the statute of the autonomy of South Tyrol. It was received in a rather hostile manner by the Romanian political parties, and it was never submitted to parliament.

25 For detailed comparative analyses of these documents, see Bakk (2004) and Bognár (2006).

26 See note 9 on valence competition.

through the Council of Cultural Autonomy (Kulturális Autonómia Tanács – KAT). The adoption of this law was included into the governmental programme of the Tăriceanu-cabinet and, more importantly, it was the government that submitted the bill to parliament in 2005. Then it was revived again in 2010-2011 (when RMDSZ was part of the government led by Emil Boc), and at the declarative level it remained in the programmes of almost all subsequent governments of Romania.²⁷

Despite the failure to pass the law, the bill is important because it signifies the first occasion when some sort of autonomy had realistic chances of being codified in Romania, even if the national-cultural autonomy that was foreseen was of a very limited nature, falling way short of the previous conceptions elaborated during the 1990s. Conversely, all the previous conceptions can rather be considered political statements than drafts elaborated with a real chance of being passed (Bakk 2004). Still, a comparison of the 2005 bill with these can shed some light on the evolution of the Hungarian élites' thinking about autonomy.

Most of the 16 autonomy drafts that have been elaborated are complex documents, consisting of a package of laws, referring to multiple types of autonomies (basically the same types as in Vojvodina: territorial for the Szeklerland, non-territorial or national-cultural and special administrative status for isolated localities with Hungarian majority). There are references to non-territorial autonomy in ten of these, including the 2005 minority bill.

The most controversial aspect of the 2005 minority bill of RMDSZ was the section concerning the minority organizations that could participate in the elections for the councils of autonomy and the method of their registration. The bill distinguished between two types of minority organizations: those registered under the conditions borrowed from the electoral legislation and those registered simply as NGOs (associations, foundations, unions, etc.). The latter organizations may not compete for the parliament or at the local elections, but they may run in the elections for the KAT. At first sight, this could be read as creating more favourable conditions for internal pluralism within the elected body of national-cultural autonomy than the rather restrictive rules that have been in force by that time for outward representation (parliament, local administrations). However, the conditions for registering 'proper' minority organizations (that is, not simple NGOs) have been copy-pasted with minor modifications from the electoral laws, which were very restrictive, if not discriminative, on this aspect.²⁸ There were also further details

27 When RMDSZ joined the governing coalition again in 2014 (the third government of Victor Ponta, replacing PNL), the pledge to adopt the law was reinforced through a separate political agreement too. Although it appeared also in the programmes of the governments formed after the 2016 elections (Grindeanu, Tudose, Dăncilă), the protocol on parliamentary support signed in 2016 by RMDSZ and the parties of the governing coalition did not contain an explicit reference to the bill.

28 See note 23. One such minor difference, of arguably no importance, is that the minority bill requires no signatures from Bucharest, only from 15 counties.

pointing towards the desire of RMDSZ to reinforce its own hegemonic position, such as the provision that elections to the KAT shall be initiated and organized by the ‘representative’ organization of the minority (under the monitoring of the Permanent Electoral Authority), that is, the one already represented in parliament. Furthermore, if the representative organization does not initiate the formation of the KAT, most of the competencies of the KAT will be exercised by the very same ‘representative’ organization. Moreover, in relation to certain competencies, the representative organization must be consulted too besides the KAT, even if the latter has been formed. Another problem is that the KAT should be elected through direct elections by the members of the minorities, but the document did not clarify how membership should be established as it did not mention special electoral rolls or any other method for establishing this (for a detailed analysis of the bill, see: Márton–Orbán 2005). Finally, it must be emphasized that the bill did not permit the participation of political parties in the elections for the KAT, by which the participation of MPP and EMNP would be excluded as both are registered as political parties, while RMDSZ could not only participate but would also be entitled to initiate the elections and organize them, being the ‘representative’ organization.

Because of these aspects, the draft has been heavily criticized by the opposition (MPP and EMNT, later also EMNP), who repeatedly demanded its withdrawal from the parliament. RMDSZ, however, did not yield and maintained the bill as a central element of its electoral propaganda for multiple electoral cycles. Even in October 2018, the President of RMDSZ stated in an interview that the law on national minorities should be adopted even if ‘everyone has been silent on this for 13 years’.²⁹

Turning now to the earlier autonomy conceptions, one can establish that the ones that addressed the issue of directly electing the bodies of self-government envisaged some sort of electoral roll, and the issue of a special electoral roll was a central feature of the drafts elaborated during 1994/1995 by an expert committee set up by RMDSZ. In this period, RMDSZ endorsed the idea that special electoral rolls should be compiled by the authorities for the national minorities. However (stemming from the dual nature of RMDSZ), the line was blurred already back then because this roll should have served as the basis for the internal elections within the RMDSZ too (the contradiction could be resolved if RMDSZ was recognized by the state as the Hungarian self-government) (Bakk 2004). But the special roll has never been compiled, and the idea gradually faded into oblivion. It appeared again in the only conception about non-territorial autonomy elaborated after the split of 2003, but this was already commissioned by EMNT.³⁰

29 <https://www.maszol.ro/index.php/belfold/103491-kelemen-hunor-nem-lehet-szelektiven-kezelni-a-velencei-bizottsag-jelentesit>.

30 This is not surprising as this draft has been written by one of the authors that also participated in the work of the autonomy committee of the RMDSZ in 1994–1995.

The other issue worth analysing refers to who should organize and supervise the elections. Of all autonomy conceptions, there was only one that would declaredly entrust the organization of elections to RMDSZ itself (the draft written by József Csapó in 1993, which was never officially assumed by RMDSZ). Although the majority of the earlier drafts did not address this issue, leaving it for a future law that should regulate the method of elections, this does not mean that these drafts did not take a position on the issue. If the elections should be regulated by a law adopted by the parliament of Romania, then it is implied that the organization and supervision of the elections shall be the task of state authorities. Similarly, envisaging a public law status for the self-government – a feature shared by most of the conceptions – would indicate the same.

The conclusion is that the details of the 2005 bill reflect vision about how the institutions of a potential national-cultural autonomy should look like that is completely different from the earlier conceptions commissioned by RMDSZ. Regarding both the delimitation of the electorate and the responsibility of initiating and organizing the elections, the 2005 bill can be considered a step back in terms of internal democracy. Perhaps renouncing the special electoral roll can be explained with the fact that such a roll would not be in the interest of the organizations of the other recognized minorities as a small number of registered co-ethnics could have consequences on the subsidies received from the state. But the idea that the ‘representative’ organization should organize, and especially initiate, the elections to the KAT obviously points to the intention of reinforcing the hegemony of the already dominant organization and is a clear symptom of democracy deficit. Even if the National Electoral Authority should supervise these elections, this would create an additional bias in favour of the ‘representative’ organization besides the ones stemming from the regulations referring to who can participate.

Conclusions

The central feature of both analysed cases is that while sharing the idea that autonomy is an overarching political goal, the rival élites of the Hungarian minorities were unable to agree on the legal regulatory framework of such an arrangement, on the principles that could form the ‘capsule of competition’ within the ethnic party system. On the contrary, the strongest minority parties used, or tried to use, the opportunity of institutional design to safeguard their own interests and outflank their challengers. As a consequence, the legitimacy of the framework of intra-ethnic political cooperation and competition remains problematic or vulnerable, and the institutions of self-government are far from being able to act as an arena where the interests are aggregated before being put forward in inter-ethnic bargaining at the level of the polity at large. That is, the two tasks that the rival Hungarian élites have

been rather consensually attributing to such a self-government cannot be performed properly because they cannot be disentangled in a satisfactory manner. The strongest parties will attempt to equate themselves with the institution of self-government (for the sake of taking advantage of the purportedly higher legitimacy of the latter), while intra-ethnic competitors who are not in a majority position (no matter how strongly committed they are to autonomy) will be tempted to engage in criticism towards the self-government, thus undermining its legitimacy. This way, the capacity of the self-government institutions to contribute a solution to the problem of intra-ethnic electoral coordination at the regular (parliamentary, local, etc.) elections is also reduced, even if the desire of all-inclusive intra-ethnic coalitions remains high on the agenda in the public sphere of the Hungarian minorities before each election, and opinion polls also regularly indicate high expectations for this within the ethnic constituency.³¹

But the two analysed cases are problematic not only from the perspective of intra-ethnic cooperation, coordination, and interest aggregation but also from that of competition, especially the bill from Romania. The absence of intra-ethnic competition or the biased nature of the rules that set the framework for it is definitely a problem from the perspective of the ethnic group because what is more or less a taken-for-granted feature of democratic politics for the majority is not available for the minority voters who wish to remain within the 'ethnic shell' and are reluctant to vote for mainstream parties. Although elections for the bodies of national-cultural autonomy are only one element of this framework (besides the regulations concerning general elections), their biased design is problematic because the body formed according to these rules should be in charge with the outward representation of the entire minority community. Furthermore, we could also see that the rules concerning minority organizations at the general elections can be biased too and that regulations concerning one arena of competition can be simply copy-pasted to apply also for another arena.

Whether intra-ethnic competition is good or bad for the stability and the quality of democracy at the level of the polity is still debated in the literature although it is now obvious that the predictions of the well-known outbidding thesis are not unavoidable. Although in both specific cases analysed here the imperfect conditions of electoral contestability were disadvantageous for the more intransigent parties of the minority, only because the arrangement ensures the primacy of the moderates one cannot argue that the democratic deficit of the institutions is a necessary evil that should be accepted for the greater good of keeping the purportedly radical élites

31 Surveys representative for the Hungarians in Romania carried out in 2010 and 2011 showed that 61.6–65% of the ethnic Hungarian electorate expected RMDSZ to cooperate at the elections with both existing rival ethnic organizations, and a further 8.4–11.8% expected cooperation with one of the two challengers existing by that time (Kiss—Barna 2011). Unfortunately, we are not aware of similar data for Serbia.

in check. Such a line of reasoning would resemble the arguments of authoritarian leaders who claim that only they are able to warrant stability in their country. Furthermore, there is no guarantee that a biased institutional design will not strike back against the moderates.

The fact that such institutional designs are preferred by both the strongest minority parties and the mainstream parties points to a more fundamental problem of the minority rights regimes too.³² From the perspective of the minority party, it is rational to minimize the chances of being challenged and replaced by rival élites. Both RMDSZ and VMSZ have been accepted into the party cartels of their countries in the late 1990s and are not willing to surrender this position. On the other hand, the majority élites also feel more comfortable when having to deal with less intransigent minority élites, so they develop a vested interest in reinforcing the position of the latter within the minority. This situation is reminiscent of a soft version of the model of ethno-cultural diversity management called (*hegemonic control*), in which moderate minority élites are provided with (or at least lured into the promise of) a limited framework of autonomy of action in exchange for their pledge to refrain from radicalization while also keeping the radicals in check (about models of control, see Lustick 1979, McGarry–O’Leary 1993). At the same time, genuine power sharing is not institutionalized, leaving the participation in power of minority élites dependent on political deals that have to be renegotiated each time the power balance within the majority group is reshuffled. This model seems to be particularly appropriate in the case of Romania as it has been argued in a number of studies that analyse the minority rights regime of this country (Kiss–Székely 2016, Kiss et al. 2018, Medianu 2002). However, some features of the manner in which the Serbian system of non-territorial autonomy has been implemented also raise the possibility of a similar interpretation despite the presence of some limited institutional safeguards for power-sharing (for instance, allowing the parties to conduct the registration campaign themselves).

Although the analysis presented in this article pointed out several shortcomings of non-territorial self-government arrangements that may create a framework of rules that is not neutral but biased towards specific minority actors, all this is not to say that autonomy or minority self-government is something to be avoided or inherently unsuitable for creating fair conditions for intra-ethnic competition while also enabling the outward representation of minority interests. Rather, the insights of this analysis were intended to highlight potential pitfalls of institutional design in the case of internally divided ethnic groups.

32 A minority policy regime refers to the totality of legal and informal rules governing ethnic relations and minority accommodation. See: Rechel (2009).

References

- BAKK, Miklós. 1999. Az RMDSZ mint a romániai magyarság önmeghatározási kísérlete 1989 után. *Regio* 10(2): 81–116.
2004. Az autonómia-tervek két szakasza Erdélyben 1989 után. *Magyar Kisebbség* 10 (1–2): 39–60.
- BÁRDI, Nándor–ÉGER, György (eds). 2000. *Útkeresés és integráció. Határon túli magyar érdekvédelmi szervezetek dokumentumai 1989–2000*. Budapest: Teleki László Alapítvány.
- BARTOLINI, Stefano. 1999. Collusion, Competition and Democracy. Part I. *Journal of Theoretical Politics* 11(4): 435–470.
- BENEDIKTER, Thomas. 2010. *The World's Modern Autonomy Systems. Concepts and Experiences of Regional Territorial Autonomy*. Bolzano/Bozen: EURAC Research.
- BERETKA, Katinka–SZÉKELY, István Gergő. 2016. The National Councils of National Minorities in the Republic of Serbia. *Autonomy Arrangements in the World*. Available at: <http://www.world-autonomies.info/ntas/serb/Pages/default.aspx> (last accessed: 3 August 2020).
- BOCHSLER, Daniel. 2007. *Local Politics and Intra-ethnic Party Competition: Multi-Party Systems among Ethnic Minorities in Central and Eastern Europe*. Paper presented at the 4th ECPR General Conference, 6–8 September 2007, Pisa.
- BOCHSLER, Daniel–SZŐCSIK, Edina. 2013. Building Inter-Ethnic Bridges or Promoting Ethno-Territorial Demarcation Lines? Hungarian Minority Parties in Competition. *Nationalities Papers* 41(5): 761–779.
- BOGNÁR, Zoltán. 2006. Romániai magyar autonómiakoncepciók. Az 1989 és 2006 között kidolgozott törvénytervezetek. In: *Autonómia, liberalizmus, szociáldemokrácia. Fejtő Ferenc, Salat Levente, Ludassy Mária, Egry Gábor és Bognár Zoltán írásai*. Budapest: Európai Összehasonlító Kisebbségkutatások Közalapítvány. 85–117.
- BRUNNER, Georg–KÜPPER, Herbert. 2002. European Options of Autonomy: A Typology of Autonomy Models of Minority Self-Governance. In: GÁL, Kinga (ed.), *Minority Governance in Europe*. Budapest: Local Government and Public Service Initiative, Open Society Institute. 11–36.
- COAKLEY, John. 2008. Ethnic Competition and the Logic of Party System Transformation. *European Journal of Political Research* 47(6): 766–793.
- EIDE, Asbjørn–VIBEKE, Greni–LUNDBERG, Maria. 1998. Cultural Autonomy: Concept, Content, History and Role in the World Order. In: SUKSI, Markku (ed.), *Autonomy: Applications and Implications*. Dordrecht: Kluwer Law International: 251–276.

- HEINTZE, Hans-Joachim. 1998. On the Legal Understanding of Autonomy. In: SUKSI, Markku (ed.), *Autonomy: Applications and Implications*. Dordrecht: Kluwer Law International. 7–32.
- HOROWITZ, Donald. 1985. *Ethnic Groups in Conflict*. Berkeley: University of California Press.
- KISS, Tamás–BARNA, Gergő. 2011. *Közélet és közérzet Erdélyben. 2011. december*. Research report. Cluj-Napoca: Romanian Institute for Research on National Minorities.
- KISS, Tamás–SZÉKELY, István Gergő. 2016. Shifting Linkages in Ethnic Mobilization: The Case of RMDSZ and the Hungarians in Transylvania. *Nationalities Papers* 44(4): 591–610.
- KISS, Tamás–SZÉKELY, István Gergő–TORÓ, Tibor–BÁRDI, Nándor–HORVÁTH, István (eds). 2018. *Unequal Accommodation of Minority Rights: Hungarians in Transylvania*. Cham: Palgrave Macmillan.
- KORHECZ, Tamás. 2004. Valóra válhat-e az autonómia-álmom? – A Vajdaságban megalakult a Magyar Nemzeti Tanács. In: BLÉNESI, Éva–MANDEL, Kinga (eds), *Kisebbségek és Kormánypolitika Közép-Európában*. Budapest: Gondolat. 193–208.
- LUSTICK, Ian. 1979. Stability in Deeply Divided Societies: Consociationalism versus Control. *World Politics* 31(3): 325–344.
- MALLOY, Tove H.–OSIPOV, Alexander–VIZI, Balázs (eds). 2015. *Managing Diversity through Non-Territorial Autonomy. Assessing Advantages, Deficiencies, and Risks*. Oxford: Oxford University Press.
- MALLOY, Tove H.–PALERMO, Francesco (eds). 2015. *Minority Accommodation through Territorial and Non-Territorial Autonomy*. Oxford: Oxford University Press.
- MÁRTON, János–ORBÁN, Balázs. 2005. Elemzés a 2005-ös kisebbségi törvénytervezetről. In: BODÓ, Barna (ed.), *Romániai Magyar Évkönyv 2004–2005*. Timişoara: Szórvány Alapítvány–Marineasa. 155–198.
- MCGARRY, John–O’LEARY, Brendan. 1993. Introduction: The Macro-Political Regulation of Ethnic Conflict. In: MCGARRY, John–O’LEARY, Brendan (eds), *The Politics of Ethnic Conflict Regulation. Case Studies of Protracted Ethnic Conflicts*. London–New York: Routledge. 1–40.
- MEDIANU, Narcisa. 2002. Analysing Political Exchanges between Minority and Majority Leaders in Romania. *The Global Review of Ethnopolitics* 1(4): 28–41.
- MIRNICS, Károly. 2000. Politikai önszerveződés. In: GÁBRITYNÉ MOLNÁR, Irén–MIRNICS, Zsuzsa (eds), *Vajdasági marasztaló. Tanulmányok, kutatások*. Szabadka: Magyarságkutató Tudományos Társaság. 249–280.
- MITCHELL, Paul–EVANS, Geoffrey–O’LEARY, Brendan. 2008. Extremist Outbidding in Ethnic Party Systems Is Not Inevitable: Tribune Parties in Northern Ireland. *Political Studies* 57(2): 397–421.

- NIMNI, Ephraim. 2007. National–Cultural Autonomy as an Alternative to Minority Territorial Nationalism. *Ethnopolitics* 6(3): 345–364.
- OSIPOV, Alexander. 2013. Non-Territorial Autonomy as a Way to Diversity Policies: The Case of Russia. In: NIMNI, Ephraim–OSIPOV, Alexander–SMITH, David J. (eds), *The Challenge of Non-Territorial Autonomy: Theory and Practice*. Oxford: Peter Lang Academic Publishers. 133–148.
- PRINA, Federica–SMITH, David J.–MOLNÁR SANSUM, Judit. 2018. National Cultural Autonomy and Linguistic Rights in Central and Eastern Europe. In: HOGAN-BRUN, Gabrielle–O’ROURKE, Bernadette (eds), *The Palgrave Handbook of Minority Languages and Communities*. London: Palgrave Macmillan: 181–205.
- PURGER, Tibor. 2016. Etnopolitikai érdekképviselés: Hatékonyság vagy pluralizmus? A vajdasági magyarok politikai pártjai és érdekszervezetei hárompólusú erőterben. *Magyar Kisebbség* 21(3–4): 81–92.
- RABUSHKA, Alvin–SHEPSLE, Kenneth. 1972. *Politics in Plural Societies: A Theory of Democratic Instability*. Columbus: Charles E. Merrill.
- RECHEL, Bernd. 2009. Introduction. In: RECHEL, Bernd (ed.), *Minority Rights in Central and Eastern Europe*. London–New York: Routledge. 3–16.
- SMITH, David J. 2011. National-Cultural Autonomy. In: CORDELL, Karl–WOLFF, Stefan (eds), *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge. 277–287.
- STOKES, Donald E. 1963. Spatial Models of Party Competition. *American Political Science Review* 57(2): 368–377.
- SUKSI, Markku. 1998. Introduction. In: SUKSI, Markku (ed.), *Autonomy: Applications and Implications*. Dordrecht: Kluwer Law International. 1–5.
2008. Personal Autonomy as Institutional Form – Focus on Europe Against the Background of Article 27 of the ICCPR. *International Journal on Minority and Group Rights* 15(2–3): 157–178.
- SZÉKELY, István Gergő. 2014. *Dynamics of Party Politics, Electoral Competition and Cooperation within the Hungarian Minorities of Romania, Serbia and Slovakia*. PhD thesis. Budapest: Central European University.
- TKACIK, Michael. 2008. Characteristics of Forms of Autonomy. *International Journal on Minority and Group Rights* 15(2–3): 369–401.
- TORÓ, T. Tibor. 1998. Az RMDSZ kormánykoalíciós szerepvállalása: zsákutca vagy kiút egy hatékonyabb politikai érdekképviselés felé? *Magyar Kisebbség* 4(1): 222–251.
- TSEBELIS, George. 1991. *Nested Games: Rational Choice in Comparative Politics*. Berkeley–Los Angeles: University of California Press.
- VÁRADY, Tibor. 2009. Gyakorlat nincs, magunknak kell kialakítanunk. Interjú dr. Várady Tiborral. *Kitekintő* 28 December 2009. Available at: http://kitekinto.hu/karpat-medence/2009/12/28/gyakorlat_nincs_magunknak_kell_kialakitanyunk_-_interju_dr_varady_tiborral/ (last accessed: 19 February 2019).

- VIZI, Balázs. 2002. Minority Groups and Autonomy from an International Political Perspective. In: GÁL, Kinga (ed.), *Minority Governance in Europe*. Budapest: Local Government and Public Service Initiative, Open Society Institute. 37–55.
- ZUBER, Christina Isabel. 2013. Beyond Outbidding? Ethnic Party Strategies in Serbia. *Party Politics* 19(5): 758–777.
- ZUBER, Christina Isabel–MUS, Jan Jakub. 2013. Representative Claims and Expected Gains. Minority Council Elections and Intra-ethnic Competition in Serbia. *East European Politics* 29(1): 52–68.