

# Romania: Statute of Ethnic Minorities. Past, Present, Future

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## • **Foreword**

Day by day the influence of domestic policies on the international relations becomes more relevant. Day by day the question of integration or isolation seems to boil down to either adopting or adapting internationally recognized democratic measures within newly developing regions. Certain issues remain however stubbornly pending, despite internal or international efforts aiming for change. Strangely or not they seem to constitute ordinary life within the states at stake, albeit the attention acquired overseas. Such a case, representing one of the hottest issues in every Western political publication, is the statute of minorities in the former communist countries of Eastern Europe.

After a period of repression and authoritarian dominance of the communist forces, when no voice dissonant with the authority choir could be heard, the freedom and access to the fruits of democracy opened an enormous number of channels. In particular the ethnic minorities found themselves in the possession of exercising freely their rights, guaranteed in democratic societies. An old conflict re-entered the stage: the contrast between the claims of the various minority groups and the long time cultivated nationalistic view of the majority.

Common historical features concerning territories and political dimensions of states characterize Eastern Europe. Due to either the imperial period or to the communist era, state boundaries herein were never guaranteed; splitting or adding regions to a certain country was almost common habitude. Continuously altering the structure of a nation was thus implicit. Present-day situation offers a multitude of states with minority percentages of at least 10%, usually these minorities being focused in well-determined regions of the states in question.

Advocates of separation and/or autonomy on ethnical grounds are not a few. The step towards democracy has been at the same time a step towards reaffirmation of ethnical affiliations. Although not all the Eastern European states are subject to the same kind of “ethnical tension”, from time to time conflicts arise in such a measure that imminent war cannot be stopped. The recent example of the Albanian community in the Serbian province Kosovo is only one of the negative consequences that an indifferent or an opposing government can lead to. It seems that the only solution to peaceful cooperation of ethnical segments would be the implementation of democratic institutions that would ensure and would seek that the rights of the minorities are inviolable and in harmony with the rights of all the other citizens.

The hereby paper will argue that in order to prevent splitting on ethnical grounds or ineluctable civil wars, governments all over Eastern Europe should be willing to make concessions. They should be willing to accept a compromise rather than persisting in anti-minority policies, whether fueled by the high nationalistic feelings of the citizens or not. Taking Romania as example, the present constitutional provisions dwelling with the statute of the minorities are a step towards peaceful resolution, but are far from being sufficient. International pressure is one decisive factor that can influence policy making with regard to minority rights. In this respect the role of the European Union is seen as a major factor. Institutional remedies guarantying the implementation of the international conventions underlying minorities as well as new institutions meant to survey development of minority rights both in relation to domestic and international policies can be solutions implemented with the aid of the “democratic Europe”, the European Union.

## • **Comparative analysis of minority status in Romania during the communist regime and after**

### **Communist regime**

After 1945 Northern-Transylvania and the Seklers' Land were returned to Romania. The law number 86, the National Minority Statutes, issued on 6 February, 1945, which has been formally in effect ever since, ensured for the first time collective rights for national minorities. The Statutes declared that in regions where over 30% of the population was made of another national minority, people were entitled to use their mother tongue at public institutions and in court and civil servants in office in the region should have a knowledge of national minority languages, in addition to Romanian. Education in the mother tongue was ensured at all levels and racial incitement and discrimination on ethnic grounds were severely punished.

After the communist takeover, during nationalization (1948) the national minorities (we are talking mainly about the Hungarian and the German one) were deprived of their property, institutions (except for the churches) and educational system. No doubt, the elimination of private property and civil institutions as well as centralization hit everybody in the communist countries but national minorities suffered more than the others. After 1948, the Hungarian national minority in Romania had become increasingly defenseless in the face of a nationalistic-communist autocracy in Romania.

It is true that immediately following World War II a Soviet type political system was introduced in Romania as well also characterized by violent nationalistic feelings. Nevertheless, until the 60's, except the nationalization, the rights of the minorities are shown to have been respected. After 1965, Nicolae Ceausescu, the general secretary of the Romanian Communist Party, built up his own cult of personality modeled on Stalinism that he tried to make acceptable for the international public by refusing to join the Soviet Union in 1968 to participate in the occupation of Czechoslovakia. Practically this meant isolation of Romania also from the Soviet Union, besides the isolation from the West, specific to all communist countries. The Hungarian and the German languages were ousted from public life step by step beginning from the 1960s, which was contrary to the law guaranteeing the free use of the mother tongue as well as the Constitution in effect in President Ceausescu's time. In the 1980s, the Hungarian language could not be used either in the state administration or in public life (the German language was not used extensively in the administration before either).

During the *perestroika* of Gorbachev, President and Prime Minister Ceausescu's voluntarism and intolerant nationalistic policy became increasingly anachronistic. One of the policies of the communist government in Romania was to isolate the country from any possible contacts with the Western Europe. Thus, the minorities, especially the German one and the Hungarian one, were kept under severe control and they could barely talk with their relatives abroad. Hungary has always been regarded as a potential deserter from under the Soviet Union policy, due to its close link to the West, and thus as a potential enemy. Furthermore, the German minority was officially inexistent, the real number of Germans living in Romania, and of national minorities in general, being always changed and misrepresented. Romania had to look as a homogeneous society, where everybody was happy under the existing regime and did not want to know about any other alternatives.

On the other hand the national minorities had a very important role in keeping the contact with the West. One of the main reasons reason that Romania in particular and Eastern Europe in general did not lose contact with the Western democracies was the existence of the ethnical groups that kept contact with their relatives and kept them informed about domestical affairs in Romania as much as they could. Having the SRI (Romanian Service of Information), always surveying them, ethnical minorities had a hard time during the communism. Situation went so far that usually in the mixed families the people belonging to minority ethnic groups were changing completely their names, adopting a Romanian equivalent name.

Maybe surprisingly, from the unofficial point of view, links and relations between majority and minority ethnic groups were closer than ever. The more intensive the activity of the Secret Police became, the closer did Romanians, Hungarians, Germans and all the other minorities find themselves. And this happened especially started the early 80's in Romania.

### **After communism**

The 1989 uprising did not bring about much sought after change in communist-nationalistic national minority policies. The new Constitution and the public

administration and educational laws actually legalized a former deprivation of rights. The situation, however, improved, as the national minorities were able to set up their interest groups (which later became political parties). In December 1989 the Hungarian Democratic Association in Romania (RMDSZ or UDMR) and the German Democratic Forum were established, as main organizations of the Hungarian, respectively German ethnical minorities. Following the November 1996 elections, RMDSZ joined the ruling coalition CDR (the Democratic Romanian Convention). Provisions in the constitution and organic law were made that ensured and guaranteed certain rights to all the ethnical minorities existent on the Romanian territory. These existing provisions will be discussed in detail in the following sections.

Following and maybe as a direct consequence of the official improvement guaranteeing minority rights in Romania, especially since the Victor Ciorbea cabinet (from 1997-1998), the relations between Romania and Hungary, respectively Romania and Germany have improved considerably also on a diplomatic level. A chief Hungarian consulate was set up Cluj-Napoca, an agreement on the mutual recognition of university degrees between Romanian and Hungary was ratified and a number of documents on bi-lateral collaboration of the ministries were adopted. A similar German consulate in Sibiu increased its participation in diplomatic life. The diplomatic matters Hungary-Romania were thus able to be shared between Bucharest and Cluj, while those between Romania and Germany were also subject to the administration in Sibiu, besides that in Bucharest.

Nevertheless, with all improvements in the political field, situation is still tensioned. The opposition parties regard very critically the Hungarian party as being a part of the coalition and critics against the coalition as a whole aroused because of this. Unfortunately the UDMR contribution is not regarded significant by the other members of the coalition either because of the extensive criticism and opposition manifested by the large parties found in the opposition, having a lot of places in the Parliament and thus a powerful influence.

Apart the political life, situation has somewhat improved in the civil domain. For instance, following 1989, a number of traditional Transylvanian Hungarian and German social organizations were reorganized and several foundations were also born. There are today over 450 Hungarian and German foundations and associations registered in court in Romania (the number dates from 1998); their operations range from the preservation of traditions, through culture, the arts, education and welfare activity to research and business promotion.

A number of regional and local educational societies were set up mainly in the big cities. Nevertheless, these societies are not lacking problems. Their undisturbed operations are hindered by a lack of suitable material resources. Most of them cannot hope for local support though some may obtain support from their twin cities in Hungary or Germany. Thus, with all the emerging of these culturally or socially oriented societies belonging to the ethnical minorities, there are problems concerning limited founding, the Romanian state is not willing (and actually hardly can) to provide funds for organizations belonging to the ethnical minorities.

Another important topic highly debated nowadays is the use of the media by the minorities. The fall of the Ceausescu regime and the creation of a free press have resulted in positive changes for the media in Romania, including the Hungarian and

German language media. Nevertheless, the problems have not been solved at all by this. Focusing on the Hungarian media, only a handful of almost 60 Hungarian language press publications receive state support (e.g. *Korunk*, *Muvelodés*, *A Hét*, *Helikon*), while several local editorial offices are threatened by having to wind up. Their survival greatly depends on support from Hungary. Despite their financial problems, book publishers offer outstanding performance but it is a fact that they could not operate without support from Hungary.

What could be seen as surprising concerning the status of the ethnical minorities and the relations between the different ethnical groups after the communism is that while official status has somewhat improved, the relations between Romanians and the other ethnical minorities as such seem to have changed in a negative way. While especially in the last decade of the communism the relations between people belonging to different ethnic groups seemed closer than ever, the Revolution and the new era brought a state of tension. Fueled by extremist national political parties (especially the actual opposition), the public's general view seems to be antagonist more and more to the resolution of claims in favor of the ethnical minorities. Recent surveys show that, with the great exception of the intellectuals between 25-40 years, the high majority of the Romanians are against the "loose" policy of the actual government concerning ethnical minorities' claims. Naturally, all these indicators are used by the opposition parties to justify a lack of will, power and professionalism of the actual government. In this respect, international opinion is very important in order to maintain the credibility of the actual government and thus, to refer to the topic, to keep protecting and ensuring the internationally acknowledged rights of the ethnical minorities. For instance, to take the most recent event, the admission of Romania as a state negotiating for entering EU at the recent conference at Helsinki has inclined considerably the balance in favor for the actual President, Constantinescu, raising his support among the people.

## • Existing and highly demanded provisions regarding ethnical minorities in the constitution and in the organic law

### Constitution

The actual form of the Romanian Constitution dates back from the 8<sup>th</sup> of December 1991. It declares Romania to be a national state. The official language of the state is Romanian alone. National minority rights are dealt with in several articles of the Constitution, such as the right for ethnic identity (Article 6), the right for schooling in the mother tongue (Article 32), the right for Parliamentary representation (Article 59) and the right for an interpreter (Article 127). In addition to these specific provisions concerning ethnical minorities in particular, there is the also the "unity and no discrimination principle" which applies to all minorities (Article 4, line 2): "Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property, or social origin." Several of them, however, are general in nature and, lacking legislative regulations, there is no real basis for their enforcement. The laws, legislative orders and resolutions may have different interpretations, which enables the implementation of law at the expense of the national minorities. We will

discuss possible changes in the form of these provisions within the solutions proposed in order to solve the ethnical state of tension and conflict.

### **Organic law**

**The public administration law** passed in 1994, under the Iliescu regime, ruled of an exclusive use of the Romanian language, which was a step back compared even to the Ceausescu regime. The government under Prime Minister Victor Ciorbea, with an urgent government order allowed for the use of the Hungarian language in public administration at settlements where the proportion of the national minority exceeds 20% (only 10 percent lower than the law promulgated in 1945, see the comparison between the minority status under communism and after) of the total population.

Nowadays there are discussion whether the limit of 20% is indeed justified or whether it should still be lowered.

**The educational law** was promulgated in a firm form in 1995 and aimed at exclusively enforcing the dominance of the majority language and culture by means of deprivation of rights and placing restrictions on schooling in the mother tongue and on religious education. Contradictions in some articles have created an uncertain legal situation in national minority education and enabled the authorities for intervention. An urgent government order canceled anti-minority ruling in the educational law, without clearly stating nevertheless the limits of minority education in their own culture and their own language. Efforts were made in this respect in the last years especially in Transylvania and they partially succeeded, nevertheless after a considerable opposition.

**The party law** does not ban the activity of ethnic parties but by its ruling, there should be at least 10,000 members in 16 counties, jeopardizes the existence of the smaller ethnical minority parties. This is the explanation for the fact that except the Hungarian and German minority there are almost no minority parties in Romania (the Roma minority still has one). A second consequence would be that a single party would tend to represent the whole ethnical minority, especially where it is not so numerous (as the German one). The Hungarian minority still has 2 smaller parties that are nevertheless irrelevant for the public political life and, as said, in danger of disappearing.

### **Officially demanded but unsolved laws**

**A national minority law** has been demanded since 1991 by the national minorities in Romania. The most prominent minority, the Hungarian one, submitted a relevant draft even in 1993; the Romanian governments did not deal with the issue seriously till 1996, although it was recommended to Romania by the Parliamentary Assembly of the European Commission. Romania has made a written promise to pass the act and a try was given during the Victor Ciorbea cabinet. Nevertheless the law did not get the approval of the Parliament. As far as data was found, the national minority law is still in the phase of its final project after repeated rejections from the Parliament.

**A church law** has been demanded by 14 formally recognized religious denominations since 1990 to settle the issue of the churches for a long term ensuring, among others, that the churches may operate schools in the mother tongue and may regain their nationalized property. The church never got to be discussed in a serious form by the Parliament. Despite the lack of legislative regulations, the Romanian government started to compensate the Greek-Orthodox and re-authorized Greek Catholic denominations, however, compensation for the historical Hungarian churches, for instance, is still ahead. There is significant tension concerning this matter and there are no recent indications that this law will be solved in the near future.

### **National minority committee**

Concerning the Hungarian minority, a national minority council was generated in 1997. When the Romanian-Hungarian basic treaty (Treaty made between the Republic of Hungary and Romania on understanding, co-operation and good neighborly relations) signed on 16 September, 1996 took effect, new circumstances arose as regards the legal position of the Hungarian national minority in Romania, as it records general principles of settling national minority issues. A national minority committee of an inter-governmental joint committee set up in November 1997 was appointed to supervise the implementation of national minority regulations in the basic treaty.

### **• Solutions and implementation in terms of new institutions and constitutional provisions**

From the analysis performed above, it seems to be rather clear that under the actual system, with all the official and unofficial improvements, national minorities do not consider their rights completely respected and their status is by far not the one desired or the one adequate to the European (at least theoretical) standards.

Improvements concretized in constitution amendments and new provisions in the fundamental law are introduced and discussed, as well as new democratic institutions in order to implement or survey the de facto implementation of the laws concerning minorities.

### **Solutions in terms of new institutions**

The hereby paper argues that certain institutional remedies are very welcome and constitute the base of the solution. Following, some ideas concerning the type of necessary institutions are introduced.

### **Office for national and ethnic minorities**



If we take the example of other two Eastern European countries, which managed to impose a higher speed on their democratization process, Czechia or Hungary, they do have an office for national and ethnic minorities which regulates pretty much the relations between the ethnical group and the majority and watches at the implementation of the minority rights all over the state. In Romania, by law, a National Minority Committee was implemented (as discussed above) in 1997, nevertheless its power was more theoretical than de facto and the compoence, inter-governmental joint committee proved to be too biased towards the policies of the government, in the sense that practically it supported the government trying to convince the minorities of the necessity of those laws.

An office for national and ethnic minorities is needed in Romania and in other Eastern European countries where it does not exist yet. It should be directly subordinated to the ministry of the cults or an eventual ministry of national minorities. Members of all the ethnical groups should compose it and it should have governmental authority. Besides the implementation of the rights of the ethnical minorities, the office for national and ethnic minorities would have to survey and help the regional self-governments, which constitute a second point in the institution section.

The Office for national ethnical minorities should also have the power to send laws promulgated by the Parliament to be analyzed by the Constitutional Court (the power to investigate for unconstitutionality). Maybe we do not exaggerate if the Office for National Ethnical Minorities should also have the legislative initiative (given a qualified majority of its members support it).

### **Regional self-governments**

Citizens belonging to ethnical minorities should be able to have the power to organize themselves in a regional self –governments (that is forming self-governments, by direct election, at regional or local level) that should decide upon the policy outcome of the laws referring to the ethnical minorities that they represent. Such self-governments are not a complete new idea; these institutions exist in some of the Eastern European democracies already. Hungary has stipulated the possibility of forming this kind of institutions in the law of the national minorities, for instance.

The regional self-governments should watch to the implementation of the constitutional and organic laws regarding ethnical minorities in their own region and they should be the addressee of every claim concerning these laws. In the actual conditions their role should be more informal than formal, it is true, and they would be completely subordinated to the office of national ethnical minorities as a central authority. Naturally, as a more federal structure could be imposed, the role of the regional self-governments would raise accordingly.

### **Constitutional amendments**

With reference to the existing articles concerning minorities, the following amendments constitute a proposal aiming towards improvement:

*1. Article 32-education*

*(3) The right of persons belonging to national minorities to learn their mother tongue and their right to be educated in this language are guaranteed; the ways to exercise these rights shall be regulated by law.*

Line (3) of this provision, stated above, is not clear enough concerning the education in one mother's tongue. The organic laws were more or less always contested (the educational law was highly debated and practically over-ruled by urgent governmental ordinances) by the minorities therefore a more precise formulation of this law in the constitution would at least diminish the debate about it. An alternative or additional solution would be considering an institution within the ministry of national education that has only the special function of implementing and watching the right interpretation of minority educational rights and formulating (or adapting) the educational law to the necessities of the minorities.

*2. Article 59-representation in the Parliament*

*2) Organizations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organization only.*

The last proposition of the line (2) of this provision seems to be discriminatory and useless at the same time. If a second organization of the same minority obtains the number of votes, it should be represented in the Parliament, as any other organization. Nevertheless this is not likely to happen not even with the Hungarian minority for reasons already mentioned in the sections above (the minorities are not likely to be willing to be represented by more small parties than by a big, important party, to represent and to have a say about their issues). Linked to this provision, the party law will be amended, but space will be given separately to this issue.

*3. Article 127 – Court language*

*(2) Citizens belonging to national minorities, as well as persons who cannot understand or speak Romanian, have the right to take cognizance of all acts and files of the case, to speak before the Court, and formulate conclusions, through an interpreter; in criminal trials, this right shall be ensured free of charge.*

The article concerning the right to an interpreter in the court in its second line is discriminating against most of the civil cases, where the citizen belonging to the national minority has to pay for his interpreter. Taking into consideration that the civil cases occur very often compared to the criminal once, it is reasonable that an interpreter is provided free of charge as well. As a matter of fact this problem occurs rather frequently in trials in Transylvania complaints have been already made about it.

**New necessary constitutional provisions**

Regarding necessary constitutional provisions regarding minorities that are not present at all in the actual constitution, one cannot say there is the case under the present form of state characterizing Romania.

In a more radical opinion, which is not entirely opposite to the perspective of the present paper, a federal structure could be imposed in Romania having as components the historical regions. Thus, Transylvania, Valahia and Moldova would be much more autonomous and the issue of the minorities will be dealt with by each region itself. This would be advantageous especially for Transylvania where 30% of the population is represented by other ethnic groups than Romanian. The drawback will be that the other two regions are much more homogeneous than Transylvania in what regards ethnical structure (even if Southern Valahia and Eastern Moldova is the place for the Bulgarian, Turkish, respectively Ukrainian and Russian minorities). The division is equilibrated from many perspectives, given that that the respective regions were a long period in the history separated and independent states. Nevertheless, at least from nowadays' perspective, the idea seems utopian given the excessive nationalism and desire to remain centrally unified of the great majority of the Romanians (small exceptions encountered especially in Transylvania)

### **Changes and additions regarding organic law**

The situation concerning organic laws is a very different one compared to that of the constitution. It is clear that many laws are missing concerning ethnical minorities, therefore we will insist here only on the major ones, these being also the most disputed ones. Nonetheless most of the law projects exist already, but they were not solved or did not even enter the discussion in the government. The process of analyzing or deciding upon minority laws proves to be extremely slow, it takes forever to promulgate the laws and urgent governmental ordinances seem to give the tone.

*The national minority law:* should be perfected and promulgated in a very detailed form. Hungary for instance has a very detailed law concerning ethnical minorities. It should be basically the most important organic law regarding ethnical minorities as such. What is very interesting is that some of the Eastern European states have promulgated and detailed this law a very long time ago. Others are still struggling with it in the Parliament where too many nationalistic parties oppose it.

*The educational law-* it should be modified and very clearly processed so that urgent ordinances are not necessary to correct or to make additions. It might be useful to make regional differences and thus to vary the outcomes in function of the population structure. The Hungarian majoritarian counties in the Transylvania (Hargita and Covasna) should be given special priority, for instance. The educational law should contain detail references to all possible educational institutions; this is necessary given the fact that many times the whole educational law is seen within the context of the graduate education, especially.

*The party law*-The party law is definitely discriminating towards minorities in its actual form. Requesting that a political party should have been represented by 10000 people from 16 different counties is limiting the access to political life of organizations formed in regions where minorities are actually focused. For instance, the Ukrainian minority really falls in this case, being focused on the eastern extreme Romanian region. At least affirmative action concerning minorities should be made in the sense that they should not be required to have the members of the parties from 16 different counties.

*The church law*- This law is one of the most disputed ones in the actual context. The old properties of the Hungarian church that were nationalized during the communist regime have still not been returned. The claims did not cease and a state of tension raised every time. Special attention should be given to this law which could sensibly affect the relations between ethnic groups (in the case of the churches it is about Hungarian churches).

*The privatization law*- The national minorities are disadvantaged in the process of privatization. The regulatory level of the economy is low. Ousting national minorities from business positions makes it difficult for them to enter market competition as they have less funds as Romanians as a result of the previous political regime (funds from exterior are most of the time necessary in this respect, so whenever these private organizations exist they are financed with funds from abroad).

## • Final word

Romania is a typical example of a former Eastern European state dominated by a state of social, economical and political uncertainty. The status of the ethnical minorities is one example of the problems with which most of the former Soviet Union satellites are nowadays faced. There is no doubt that considerable progress has been made regarding the consideration and the implementation of the ethnical minorities' rights since the fall of the communism regime. Nonetheless the fall of the authoritarian communism amplified the social tension instead of reducing it. The causes are to be found in the inherited communist nationalism that transformed after the 90's in an exaggerated patriotism as well as in the confrontation with the free claims of the national minorities after a long period of silence.

Romanian, in particular and Eastern Europe, in general, need to learn to cooperate with the existence of the ethnical minorities and with the specific nationalism between its borders. It is not far-fetched at all to talk about a specific nationalism per state for all states in Eastern Europe, because recent studies and surveys do not do but to prove this. From the perspective of the ethnical minorities themselves after having to cope with a rigid, authoritarian, intolerant government they have face a social limit, most of the time fueled on national grounds by extremists.

The only possible solution in preventing social ethnical conflict is for all this nationalistic states the compromise. And not a theoretical, background compromise, but a compromise within political and legal domain which would lead to fast positive

policy outcomes. The gradually integration in Europe (in particular in the European Union) can facilitate this process.

**Bibliography and other sources:**

Jurg Steiner, European Democracies, Second Edition

- |   |                            |
|---|----------------------------|
| <a href="http://www.uni-wuerzburg.de/law/ro00000_.html">http://www.uni-wuerzburg.de/law/ro00000_.html</a>   | : Romanian constitution    |
| <a href="http://www.senat.ro/">http://www.senat.ro/</a>   | : Romanian Senate site     |
| <a href="http://www.ziare.com/">http://www.ziare.com/</a>   | : Romanian newspapers site |
| <a href="http://www.meh.hu/nekh/minorities%20in%20Hungary">http://www.meh.hu/nekh/minorities in Hungary</a> | : Office for national      |