

THIRD DRAFT

Autonomy as an Instrument for Conflict Prevention

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I. Introduction

Though not well known, one of the first examples of territorial autonomy in Europe can be traced to the 1224 document from Hungarian King Andreas II known as the **Andreanum**.¹ In it, so-called "Saxon" settlers from the Mosel and Rhein regions established themselves in Transylvania from the 12th Century. The **Andreanum** describes the Saxons' status, liberties and rights in five chapters. It was amended on a number of occasions through the centuries but remained in place until 1853.

The territorial autonomy arrangement in the document provided legal protections for the Saxon community and conditions conducive to the development of their national and cultural identity, as well as for the exercise of religious freedom. It subsequently clearly contributed to the Saxon community's economic freedom and prosperity. Last but not least, the **Andreanum** certainly had a considerable impact, in maintaining over a period of 600 years in Transylvania's complex social makeup, a high-level of social and ethnic peace.

II. The nation-state and globalisation

Ethnic groups today are exposed from two sides by assimilation forces: on the one hand there are the policies from governments linked to the concept of the "nation-state", and on the other the effects of globalisation.

The idea of a nation-state can be traced back to 1789 and the French Revolution with its slogan of *liberté, égalité, and fraternité*, and codification of individual rights. It is also the moment where the modern roots of nationalism became established.

The position of the French language, as language of the new revolutionary order and new "nation", was further strengthened, even though at the time more than 40% of the population did not have French as their mother tongue. Within a period of 100 years, the policies and concept of a pure nation state were dramatically "successful", with the vast majority of the members of non-French speaking communities having practically all lost their mother tongue.

During the same period, many Central European states such as Croatia, Hungary and Poland kept Latin as the language of legislation, and even as the language of parliament, until the middle of the 19th Century. As a relatively neutral language in relation to the various ethnic groups, Latin provided a degree of equality for all ethnic groups, and all individuals could thus aspire and accede to the highest positions in society.

¹ See text of the document in Annex 1.

But the "success" of the French "model" of a monolithic nation was to deeply influence the political development of some new states established at end of the 19th and 20th centuries. To this day, some leading politicians still look to France as the most valuable example of how to create a monolingual, mono-ethnic and, where possible, a mono-religious nation state.

Additionally, the influences of globalisation are being felt by small and large countries alike, and these influences are from year to year growing stronger. Younger generations do not value language from a sentimental point of view, but more for purely rational economic considerations. For them, the value of a language is to be measured by the profit which can be made with knowledge of it.

If the mother tongue of a national minority cannot fully be used in daily life, either in communication with the public administration or in business, then the language has little or no value at all. This can also similarly happen to one's sense of national identity. If in everyday life, whether in the form of road signs, topographical designations and other manifestations, one's mother tongue is not commonly used, then the world around us begins to appear and to be felt only in the language of the majority. Not only will the language of a minority be poorer for lacking the genuine descriptions of places in their mother tongue, but at the same time all of those associations which determine the soul of a nation and its identity with the surrounding world will vanish.

One must also mention the impact of a growing sense of European identity which is gaining strength with the enlargement of the European Union.

All of these developments speak for the necessity to fully realise the ideal set forth during the 50th anniversary of the Council of Europe: to preserve Europe's greatest treasure, its cultural, linguistic and national diversity, including the preservation of the identity of the ethnic and national minorities living in the different countries of Europe.

III. Minorities, Europe and territories

The redrawing of states borders after both world wars resulted in millions of individuals suddenly becoming minorities in a different country, and this unavoidably led to an increase in ethnic tensions. It explains why in Europe nowadays conflicts no longer occur between states, but within states. This knowledge is the key to understanding the particular reasons and causes of tension, and consequently to finding the preventive measures for avoiding an escalation of ethnic tension which might grow out of control.

Rising tensions in multi-ethnic States - which most States today are - between the majority of the "state forming nation" and minorities would in most cases occur where a minority is in physical danger, or believes its identity is jeopardized.

The Universal Declaration of Human Rights adopted by the United Nations in 1948 was a first major step in the right direction with its protection of individuals, but it is a moral and political document rather than a legally binding one, with no procedures to force State compliance.

Furthermore, with respect to ethnic communities, the Declaration is silent. It deals with human rights in general, but fails to address how minorities or ethnic communities can be protected in areas that are of major importance to them. It certainly makes no direct reference to autonomy.

And yet, some form of autonomy has almost invariably been the basis of many claims throughout Europe's history and it has more often than not ultimately been the basis for peaceful coexistence from the Atlantic coast to the Caucasus.

Human rights can only provide a minority with security if they are applied collectively. This point must be emphasised: individual rights are important but one must not forget that a number of human rights beyond mere physical existence and impact on the recognition and protection of interests of a community and individuals at a collective level. Human rights for an ethnic community without adequate social, economic and cultural protections are pro forma commitments lacking real substance and allowing far too easily for members of an ethnic community to be victims of discrimination by the majority in many States.

Following the political changes in East and Central Europe in several countries, the process of democratisation has been accompanied ever more often by the demand to grant a right of self-determination to groups and to national minorities. Accordingly, it has resulted, the birth or rebirth of a number states, from the Baltic countries to the Balkan. In the artificially created states, Yugoslavia, the procedure of exercising the peoples right to self-determination resulted a tragic civil war among the **Brother Nations**. **What does this mean Josef? I have never heard of this described in this way, maybe there is another description possible? Secondly, it is not generally accepted that Yugoslavia broke down on the basis of the exercise of self-determination: quite the contrary, this is quite controversial so your statement is at the surface incorrect.**

The US President Woodrow Wilson can be considered as the father of the idea of self-determination. He launched the idea as a part of his political peace program in 1918. It was in the form of the famous ten points. According to point number 10, “ The peoples of Austria-Hungary must be given the right of self-determination.” Further on, he added that “Peoples and provinces can not be transferred from one State supremacy to the others as pawns of a game.” While the words of Wilson had a great deal of impact at least in spirit, in practice they were largely overlooked during the peace-making process. The principle of self-determination was not to be a right, nor was it applied in the great majority of cases for the losing powers after both world wars.

It is necessary to point out that in tackling the question of self-determination, one must differentiate between internal self-determination, and external self-determination. Internal self-determination does not change the internationally recognised borders of a state, and it is this form of autonomy which I will be speaking about.

The implementation of internal self-determination means that a substantial ethnic or national minority, can safeguard its ethnic or national characteristics and control the resources within a clearly defined area or region by having control over its own affairs since it is the majority in this territory and can thus exercise political and legislative control over most matters of importance. Accordingly, it is able to establish or control various institutions in fields such as local legislation, education, and management of local finances.

There are many examples of fully functioning and successful autonomy models in Europe. In my paper I will deal only with seven case studies. **Further on I will consider cases where for a number of reasons certain preconditions are given to exercise the right to inter self-determination and establish one or the other forms of autonomies. ?????????? I don't understand what you are saying here?????**

IV. The seven case studies

One example of internal self-determination involves the Swiss model of decentralisation. More specifically, I will focus on the creation of the Jura Canton. Several years of ethnic tensions between the German-speaking majority of the Bern Canton and the Francophone minority settlements in the north of that canton led to a dialogue process culminating in an agreement in 1976. There would be a plebiscite in each community in the region where individuals could vote in favour of either remaining in the Bern Canton or join in establishing a new, francophone, canton of Jura. Most communities with a French-speaking majority voted in favour, and the overwhelming majority of the Swiss population and the Parliament of the Swiss Confederation approved their freely expressed choice.

The Swiss peoples can be proud of this example because the process that took place worked to prevent ethnic tensions from getting out of control. The process resulted in no casualties or notable material damage. The 1976 plebiscite and highly decentralised state structure provides for a very successful form of internal self-determination.

The second instructive case study involves Finland. Once a part of the mighty Swedish Kingdom, the peace treaty after the war of 1808-09 between the Kingdom of Sweden and Russia saw Finland - and with it the Åland Islands - become a Grand Duchy of the Russian Empire. As a result of the drastic political changes at the end of World War I in Russia, the Finns made use of the opportunity to declare independence from Russian rule in 1917, claiming this under the principle of external self-determination. During the same period, the Swedish-speaking population of the Åland Islands preferred to go back to Sweden rather than remain with Finland. An Autonomy Act was elaborated for the Åland Islands, adopted by the Parliament of Finland in 1920. At first, the Ålanders refused to accept it, and the question of Åland's status was referred to the League of Nations. The League of Nations' decision on the matter was that there was no right of external self-determination for minorities such as the Swedish-speaking inhabitants of Åland Islands. Finland therefore maintained sovereignty over the islands, though at the same time it had to guaranty the Åland Islands autonomous status with its own Parliament, legislation and Provincial Government with Swedish guaranteed as the only official language and a very high degree of autonomous powers in a number of areas.

Since then, the Åland Islands have been considered as a key success model for a lasting conflict prevention solution. A number of ethnic and national minorities are using its example as a source of inspiration to create a framework to ensure the maintenance of their culture and secure the development of their identity and financial prosperity. The Autonomy Act of 1920 was first replaced in 1951 and as it become outdated again, the Parliament of Finland in a constitutional order and with assent of the Åland Parliament replaced it again on 16 August 1991.

Before independence, Finland was not only part of the Swedish Kingdom. Much of its ruling class was Swedish-speaking. Today, the Swedish-speaking inhabitants of the country represent about 7%, or 300,000, of the total population of the country. Swedish-speakers are granted fairly generous rights in relation to the use of their language.

The wide-ranging nature of the territorial autonomy arrangement for the Åland Inlands and the legal status of the mainland Swedish-speaking population have definitely helped guarantee the social as well as ethnic peace and prosperity in the country.

I consider the South Tyrolese territorial autonomy and its practical application as a valuable third case study. The region of Tyrol, south of the Alps, was attached to Italy as a result of the Peace Treaty after the First World War, and remained part of Italy after World War II. Prior to the Italian annexation, 95% of South Tyrol's population was 95% German and Ladin speaking. The violent Italianisation of the region, particularly during Mussolini's embrace, saw this plummet to 34.3% by the time of the 1961 census.

A campaign collecting nearly 164,000 signatures and huge demonstrations in Innsbruck held on 5 May 1946 could not convince the great powers to respect the right to self-determination of the South Tyrolese. As a result of the peace negotiations in Paris, an agreement was reached between the Italian Prime Minister De Gasperi and the Austrian Minister of Foreign Affairs Gruber on 5 September 1946. Accordingly, Italy had to give among other things to the Province of South Tyrol an autonomous legislative and executive power. Despite the opposition of the South Tyrolese representatives, the Constituent Assembly in Rome on 31 January 1948 enlarged the Province and created the "Region Trentino-Tiroler Etschland" with an overwhelming Italian majority. This meant that the few autonomous powers had no real effect since control remained in the hands of the Italian-speaking majority. The steadily growing frustration and disappointment of the South Tyrolese resulted in the first bombings on 15 November 1957, followed by a number of mass demonstrations.

Thanks to the efforts of the Südtiroler Volks Partei (SVP), the Foreign Minister of Austria Dr. Bruno Kreisky tabled the South Tyrol problem in the United Nations, though without success. The disappointments created steadily growing tensions gave rise to a series of bombings and other incidents after 1961. Eventually, a series of negotiations with Rome ended with an agreement, a "packet" of 137 measures.

The most important part of the packet was the amendment of the 1948 Autonomy Statute with the approval of a new constitutional statute adopted 10 November 1971. It took an additional twenty years before all the important measures contained in the packet were implemented, and the Federal Republic of Austria could officially declare before the United Nations that the conflict had been settled. Thanks to the basic elements of their "dynamic autonomy", namely the competences over local finances and natural resources, the packet today in democratic Italy represents a solid guarantee that the German and Ladin national and ethnic minorities can maintain their ethnic characteristics and their economic and cultural development. A third revision of the autonomy statute came into force on 16 February 2001 and conceded additional rights to the Ladin minority.

It is worth emphasising that the establishment of territorial autonomy for South Tyrol is in a number of respects an example par excellence. First, it helped to avoid ethnic tensions growing out of control which could have led to secession. Second, only a timely created and just solution can be considered as lasting one. Third, it shows that when ethnic or national minority demands are met, it contributes to the development and prosperity of the whole of the country.

When the packet was initially approved on 23 November 1969, only 53% of the population of South Tyrol was in favour of it. Today, that proportion exceeds 85%. The economy is booming, and the population, regardless of their nationality, do not face any threat to their identity or their role in society. Only a very small number of South Tyroleans favour the idea of secession. Many ethnic and national communities today envy the South Tyroleans for the benefits provided by their territorial autonomy.

Central European countries in the Carpathian Basin were unable after World War II to establish in a thoroughly democratic way a framework for ethnic and national minorities issues as was the case in Finland or in Italy. One of the main reasons for this was the forceful establishment of a Soviet-style socialist system with its totalitarian and highly centralised administrative, political, social, economic, and cultural structures.

Ethnic and national minority issues in States which fell behind the Iron Curtain followed the official line that minority problems did not exist in socialist countries since the socialist system safeguarded fraternity among the different nationalities. Furthermore, it was viewed that minority policies remain an internal state matter. This meant that socialist states avoided interferences in favour of minorities living in neighbouring countries. These factors in turn facilitated assimilation measures in some socialist states.

My first case study in this category concerns the region of Transylvania in Romania. No other region of Central and Eastern Europe could be considered so thoroughly multi-ethnic and multicultural as Transylvania was, and to some extent still, is.

In a number of respects, Transylvania provides a very colourful mosaic in terms of historical, national, cultural, and religious diversity. To attempt to preserve its remaining and highly valuable diversity, it is worth tackling Transylvania as a case study for the possible establishment of autonomy in the framework of an internationally binding agreement.

Self-determination was not an option for the population of Transylvania as a whole, and for part of eastern Hungary after both World Wars. The whole territory was initially attached to Romania after the Trianon Peace Conference in Paris in 1920, though under the condition that Romania sign and ratify the Minority Protection Treaty.²

According to Article 11 of the Treaty, Romania was to secure cultural autonomy in the areas where the German-speaking (Saxon) and Hungarian-speaking (Székely) communities constituted compact settlements in Transylvania.

These obligations were not fulfilled in the interwar period, despite the requests of the Saxon/German and Székely/Hungarian communities and the demands of the League of Nations. Exactly the opposite happened, as all higher education and the majority of the secondary and primary schools of both large national communities were taken over by Bucharest and subjected to the language policies of Romanian authorities. For example, the attempt to set up a private, inter-confessional university using Hungarian as language of instruction was turned down by Bucharest in 1922.

At the same time, the very financial foundations for private minority schools in a largely agrarian society, the land holdings of minority communities and religious organisations, were drastically reduced or completely confiscated. This meant that for both of these minority groups, the ability to finance and maintain and develop their educational activities as an essential part of their national was largely denied between both World Wars.

As a result of the Second Vienna Arbitration in August 1940, the predominantly Hungarian-populated areas in the north of Transylvania were reintegrated into Hungary. It should be pointed out that the Romanian language was maintained as a compulsory subject in all Hungarian secondary schools in the area.

² For the text of the Romanian minority protection treaty see Annex.

During World War II, some ethnic tensions were always present in both parts of Transylvania. At the end of the war, the northern part of Transylvania was reattached to Romania. According to the 1948 census, the Hungarian communities in Romania were still 1.5 million strong. The only Hungarian political organisation, the Hungarian Folks Alliance (MNSZ), was dissolved in 1953. With it, the nationality question was considered to be solved in Romania and, under the regime of G. Gheorghiu-Dej, a Hungarian autonomous district - Magyar Autonom Tartomány (MAT) - was created in 1952.

It was made as small as possible with an area where lived only one-third of Romania's Hungarian community. This autonomy arrangement was claimed to secure the cultural and educational needs of the Hungarian majority in the region. Its administrative centre was Marosvásárhely/Tirgu Mures. At the time of its creation, this was the largest Székely/Hungarian town with over 90% Székely/Hungarian inhabitants. The whole region was represented an area of 13,500 square kilometres, with 74.6% (565,500) Hungarians and 19.3% (146,800) Romanians. The rest of the population was composed of Romas, Germans and Jews. By excluding Kolozsvár/Cluj from the autonomous district, which at the time had a population of 68,000 or approximately 60% Hungarian majority, the aim was to abolish the cradle of Hungarian culture. Similar policies existed in all the zones outside of the territory of the MAT. The Hungarian College of Law as well as the Hungarian College of Economy and Agriculture were closed down in 1953. The process was completed by June 1959 when the Hungarian Bolyai University in Cluj/Kolozsvár was forced to join the Romanian Babes University. During its existence the MAT had no legislative, financial or educational powers. In the whole territory of the MAT, all crucial or important positions were held by reliable individuals appointed by Bucharest.

An amendment to the Romanian Constitution took place on 24 December 1960 which described Romania as a nation state where other nationalities also lived. Consequently the name of the “ Magyar Autonomous District” has been altered to “Maros-Magyar Autonomous District” (MMAT). In reality, it was called “Regiuena Mures” and the official language was Romanian. The new buildings had only Romanian inscriptions, while in the remaining Hungarian secondary schools crucial subjects for minorities such as history and geography were taught exclusively in the Romanian language.

By using a “salami tactic” of increasingly thin territorial slices, the reorganised district only included half of “Székelyland”: the Sepsi region with 85.3% Székely/Hungarian and Kézdi with 90.0% Székely/Hungarian inhabitants were detached from the newly created administrative unit. The territory of the new administrative division saw the proportion of Hungarians fall from 565,500 or 74.6% to 482,500 or to 60.0%. The Romanians' percentage consequently increased from 19.3% to 36.8%. The powers of the newly formed district were even less substantial than those exercised by the previous one. After eight years of formal existence the MMAT was dissolved since its continued existence was controversial in light of Romania being formally declared to be a monolithic nation state in the first provision of the 1965 Constitution.

Territorial autonomy in Transylvania re-appeared on the political scene after the political changes in Romania in 1989. The Democratic Alliance of Hungarians in Romania (RMDS) in its Congress.... have declared the necessity of the establishment of a real autonomies region with the basis of the “Székelyland”. IT MUST BE COMPLETED!

In no other part of Central Europe has the principle of self-determination been so often disregarded in the 20th Century as in Ruthenia, also known as Sub-Carpathia. Its historical circumstances also make it an interesting case study.

Ruthenia is one of the most multi-ethnic and multicultural regions in the Ukraine. The region is located in the north-eastern part of the Carpathian Mountains, and it has an area of 12,800 square kilometres. It has common borders with, Slovakia, Poland, Romania and Hungary. Thanks to its history, and its ethnic and cultural diversity, the region as a unit provides all preliminary conditions to function in the future for the Ukraine as a bridge to Western Europe.

The diversity of Ruthenia

The ethnic composition of Ruthenia is extremely complex, though mainly inhabited by Ruthens/Russyns, Ukrainians, Hungarians, Russians, Rumanians, with smaller local groups such as Slovaks, Germans, Romas, Jews, and others.³ They have lived peacefully together for centuries without serious ethnic tensions. There is also a great deal of religious diversity with Ruthenians/Ukrainians and Romanians being mainly Greek-Orthodox, though some are Greek-Catholics; Hungarians who are Roman-Catholics, Protestants (Calvinists), or Greek-Catholics; Germans who are Roman-Catholics; and Slovaks who are Roman-Catholics or Protestants.

Short history of Ruthenia or Subcarpathia

- ?? For almost 1000 years until the end of World War I, the region was an integral part of the Hungarian state.
- ?? As a result of World War I, the whole north-eastern part of Hungary was attached as Podkarpatska Rus/Ruthenia to the newly created state of Czechoslovakia. The latter however, never fulfilled the obligation of 10 September 1919 in the treaty at Saint Germain en Laye under which the region was supposed to be granted territorial autonomy. This was guaranteed by the League of Nations in 20 November 1920 after peace talks concerning Hungary at Trianon.
- ?? In 1938, the First Vienna Arbitration reattached the predominantly Hungarian-populated areas in the south to Hungary. A year later, Hungary reintegrated the northern part. Initially, the Hungarian government introduced a bilingual administration at all levels under Order No. 6200/1939. In 1940 Prime, Minister Count Pál Teleki approved the Act on the Territorial Autonomy of Subcarpathia, and a local self-administration.⁴ Because of the war, this territorial autonomy arrangement could not be implemented.
- ?? After the end of World War II the whole region was annexed by the Soviet Union. Shortly after 1945, a second mass deportation took place. This time 40-45,000 Hungarians and Germans – virtually all adult males - were deported and most of them never returned from the Soviet gulags. This tragic event was followed for decades by strong forced russification and overall oppression by the Stalinist regime.
- ?? After the re-emergence of independent Ukraine in 1991, the population of Ruthenia voted with a 78 % majority for a specific status of self -government and territorial autonomy within the Ukraine. At the same time, the southern part of Ruthenia known as the

³ According to the 1989 census: Ruthen/Ukrainian 976,749 or 78,65%; Hungarian 155,711 or 12,54%; Russian 49,456 or 3,98%; Romanian 29,485 or 2,37%; others 30,513 or 2,46%; total population of 1,241,914.

⁴ **The Bill about Autonomy are attached in the Ruthenia Memorandum. Josef: what is this Memorandum?????**

Beregszász/Beregove region, which has a majority Hungarian population (81.4 %), voted for a Hungarian autonomous region within Ruthenia. The aspirations of these populations have until now been disregarded by the Government in Kiev.

?? It is a great pity that at the time of re-emergence of the Republic of Ukraine, no State exerted influence on the new government to recognise the expressed desire for territorial autonomy of 1.3 million inhabitants of the Ruthenia/Sub-Carpathia region. This question is still open, and at the present time is in several respects timelier than before.

Poor economic conditions certainly affect all aspects of life and influences many political and cultural activities in a country, yet various minority political and cultural organisations continue to seek a reliable framework and financial support to provide them with the appropriate tools to safeguard their existence. The application of different forms of autonomy – cultural, local and territorial autonomy - would provide minorities in the region with the adequate tool to preserve their national and cultural identities. At the same time, it would largely eliminate ethnic tension and could provide the necessary security to stimulate the economy of the whole region. Last but not least, it would indirectly contribute to the internal political peace and the stability of Ukraine itself.

For a number of reasons, the establishment of the second Slovak Republic in 1993 also created conditions conducive to the application of the principle of internal self-determination or territorial autonomy in the region along the south border with Hungary. Relations between the Slovaks and Hungarians in some respect show a certain historical and cultural analogy with the Finish-Swedish situation. For more than a thousand years, the territory of present-day Slovakia was an integral part of the Kingdom of Hungary. The creation of the multi-ethnic Czechoslovakia was one of the outcomes of the First World War.

At the time of the foundation of Czechoslovakia, the principle laid down by the US president Woodrow Wilson concerning the self-determination of the nations of Austria-Hungary was completely disregarded for the 4.5 million Germans and Hungarians. As for multi-ethnic Czechoslovakia, there was during the early 1930s an attempt to establish a federation between a number of regions inhabited by different ethnic groups or at least some form of territorial autonomy for its regions which might have helped avoid the tragedies following the end of the Second World War. These failed and were followed by drastic ethnic cleansing policies of Edward Benes after 1945 to create a mainly Slavic State. While the German population was removed, the autochthonous Hungarian community largely remained. In 1920, the Hungarians represented 30.5% or 880,000 of Slovakia's inhabitants. They represent today only 550,000 or 10.5%.

The Hungarian Coalition Party of Slovakia, MKP, entered into a coalition government after the elections of 1998. The most important precondition in the agreements it concluded with the main governing party was that Hungarians had to renounce their demand for a Hungarian autonomic region, a Hungarian university, or to raise the issue of a revision of the so-called Benes Decrees which affect the ownership of private and community properties confiscated in 1945-46.

In connection with the demand for a Hungarian autonomous region, it is useful to recall the opinion of the highly respected Slovak political scientist, Professor Miroslav Kusy of Comenius University in Bratislava:

Territorial autonomy does not have the secession as its final aim... In its essence autonomy means self-administration. This is equivalent to the decentralisation of

power, i.e., to the delegation of powers to the lower of more local levels. This is exactly what Democracy is founded upon. Therefore territorial autonomy is something both the Slovak and the Hungarian regions are equally entitled to, because democracy is indivisible.

When Slovakia submitted her application for membership to the Council of Europe in 1993, the Parliamentary Assembly in its Opinion 175/1993, Paragraph 11 stated:

It also takes note, whatever administrative divisions may be introduced in the Slovak Republic, of the declaration made by the Slovak authorities that they will respect the rights of national minorities.

However, during the new territorial division of the country nor the demand of the Hungarian community to create at least on Hungarian region was accepted or the opinion of the Parliamentary Assembly of the Council of Europe was respected by the Slovak Parliament onJuly 2001 by creating the new administrative territorial division of the country.

IT MUST BE COPLATED !

Over 50`000 signature has been collected among the thousand Roman Catholic Hungarian believers to support the demand for a Hungarian bishopric. Regardless the request the Slovak high church denies the creation of a Hungarian Roman catholic bishopric.

It is important to point out that a well-functioning local self-administration is just as advantageous for the majority as it is for ethnic minorities.

I completely agree with Mr. Kusy. Besides territorial autonomy, cultural or local autonomy would provide the communities of autochthonous populations with sufficient power to safeguard their rights and institutions, which are indispensable for the maintaining of their identity.

THE LAST PART CONCERNING YUGOSLAVIA : COSEVO & VOJVODIA MUST BE ELABORATED !

IV. Internationally valid basis for the self-determination of peoples;

The right of self-determination which has emerged after World War II is guaranteed in Article 1 of the International Covenant on Civil and Political Rights in the following terms:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

General Comment No.12, Article 1 of the UN Human Rights Committee further describes the nature of this right:

Paragraph 1 In accordance with the purposes and principles of the Charter of the United Nations, article 1 of the International Covenant on Civil and Political Rights recognizes that all peoples have the right of self-determination.

The right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights. It is for that reason that States set forth the right of self-determination in a provision of positive law in both Covenants and placed this provision as article 1 apart from and before all of the other rights in the two Covenants.

Paragraph 3 In the Committee's opinion, is particularly important in that it imposes specific obligations on States parties, not only in relation to their own peoples but vis-à-vis all peoples which have not been able to exercise or have been deprived of the possibility of exercising their right to self-determination.

Paragraph 8 The Committee considers that history has proved that the realization of and respect for the right of self-determination of peoples contributes to the establishment of friendly relations and co-operation between States and to strengthening international peace and understanding

Self-determination as a right in international law is currently in a state of change. Initially, when self-determination was first used after World War II, such as in Article 1 and 55 of the United Nations Charter, it meant the freedom of states from outside intervention.

In the 1960s there appeared a shift both in content and the entities being able to claim self-determination: it also referred to the right of colonies under foreign rule and non-self governing territories to claim independence and to be free from outside interference.

When we speak of the content of self-determination, the traditional view as reflected by the UN Charter and the UN Declaration on non-self-governing territories suggests it includes a right to independence and interference from outside forces.

This is sometimes described as external self-determination. The entire population within a state and in non-self-governing territories or colonies are entitled to determine their political status, including full independence and statehood, free from any external threat.

There is also increasing support for the view that self-determination may be evolving to include another aspect, something which is sometimes called internal self-determination, and can mean a right to autonomy and self-government within the borders of an existing state.

In other words, it is more and more being suggested that internal self-determination means that certain groups - such as indigenous peoples and national minorities - should be

recognised in international law as being entitled to have a degree of political power collectively. In most cases, this would probably take the form of some type of governmental structure over a designated territory -territorial autonomy - which would permit the effective exercise of self-government, although this may not be the only possible form of internal self-government.

The second internationally binding document I will deal with is the Helsinki Final Act. Paragraph VIII on equal rights and self-determination of peoples reads:

The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States.

This paragraph makes it very clear that the Act speaks definitely of internal self-determination. **Josef: no, there is absolutely no mention here of internal self-determination, so it is incorrect to say that it is "clear that the Act speaks definitely of internal self-determination!"**

Further on it is stated:

By virtue of the principle of equal rights and self-determination of peoples the peoples always have the right, in full freedom, to determine, when and where wish their internal and external political status, without external interference and to pursue, as they wish their political, economic social and cultural development.

There are also other sources which have a bearing when talking about internal self-determination or territorial autonomy for minorities. For example, Council of Europe Recommendation 1201/1993 which included an Additional Protocol on the Rights of National Minorities to the European Convention on Human Rights contained the following, and controversial Article 11:

In the regions where they are in majority the persons belonging to a national minority shall have the right to have their disposal appropriate local or autonomous authorities or to have a special status, matching the historical and territorial situation and in accordance with the domestic legislation of the state.

The Recommendation's content has often been referred to in the opinions of the Parliamentary Assembly while considering a State's application for membership. It has become an integral part of the admission process for the Council of Europe. **I do not know of any case where a new member-state would have had completely honoured its obligation made by uplying for membership by the Council of Europe, especially concerning the Recommendation 1201/1993. ??????????????????????**

For ethnic or national minorities, the right of autonomy must be considered as the central aspect of internal self-determination. Autonomy guarantees the highest possible degree of internal self-determination and a corresponding minimum of dependence by one ethnic or national minority community. Autonomy provides an instrument for the protection of ethnic groups, without prejudice to the territorial integrity of the State, and is an instrument to protect ethnic groups from being continuously outvoted by majority decision makers.

V. The different forms of autonomy

One of the basic works to handle the different forms of autonomies is the *Convention on the Protection of Ethnic Groups in Europe*, prepared by experts for a non-governmental organisation. These experts included the highly respected Dr. Felix Ermacora and a former of the Federal Union of European Nationalities (FUEN), Prof. Dr. Christoph Pan.

The Convention is based primarily on the inside experience of ethnic groups in Europe, and it was unanimously adopted by the representatives of over thirty ethnic groups from all over Europe at the annual congress of the FUEN held in Cottbus 1993.

The Convention distinguishes between three basic types of autonomy:

- territorial autonomy,
- cultural autonomy,
- local autonomy or self-administration.

The particular situation of a particular group determines which form of autonomy would be suitable. In general, a group and their members shall have the right to autonomous legislative and executive power to conduct their own affairs, wherever possible, in one of the following forms:

i. Territorial Autonomy

With territorial autonomy a minority would be able to control its own affairs through its own bodies for:

- a. legislation,
- b. executive power, with corresponding administrative structures,
- c. the administration of justice, providing that these are responsible and reflect the composition of the population,
- d. all financial matters, such as collection of taxes, financing of projects, etc.
- e. education

Territorial autonomy shall comprise all the powers which ethnic groups consider necessary for conducting their own affairs and designated in national legislation as falling within the competence of territorial autonomy.

ii. Cultural Autonomy

An ethnic group not forming the majority of the population in the areas where they are settled as well as an ethnic group which - for whatever reason - considers the establishment of territorial autonomy as unnecessary, shall have the right to cultural autonomy in the form of an organisation with public law status that they consider appropriate.

The organisation managing cultural autonomy should be an association of individuals comprising persons belonging to the ethnic group and elected freely according to democratic principles.

iii. Local autonomy or local self-administration

Ethnic groups not forming the majority of the population in the areas where they are settled, as well as persons belonging to ethnic groups who are settled away from those in isolated settlement, shall have the right of a *local self-administration, denominated local autonomy* - as it is the case in Hungary, concerning 13 ethnic minorities - within administrative units where they form the local majority of population, e.g. in individual districts or municipalities or administrative sub-units.

The different forms of Autonomy are the best mean of preventive measures;

- by granting Territorial autonomy in time, it is possible to prevent ethnic tension from growing out of control,
- by granting territorial autonomy in time, it is possible to prevent secession.

VI. The European Charter of Autonomies

Self-determination, self-government, autonomy. There may be disagreement as to the exact meaning and content of these concepts. However, what is really important is the basic idea intending to ensure stability and reconcile people with each other in a democratic, tolerant manner, as well as to secure the unimpeded preservation and development of the different cultures and with it to maintain the diversity of Europe.

One way of proceeding would be to have an internationally binding framework to help define autonomy and how it should be applied in its security, cultural, economic, and human aspects. It would seek to guide how in specific cases territorial autonomy, cultural autonomy or local autonomy could tailored and applied.

These are the main reasons for the need to elaborate a flexible yet clear instrument such as a *European Charter of Autonomies*. It could be applied in the same way as the European Charter for Regional and Minority Languages. It would contain some fundamental provisions and a number of paragraphs and subparagraphs applicable according to local circumstances.

The Council of Europe should take the lead in elaborating such an instrument but could also involve experts from other international organisations, government officials, independent experts, and last but not least, a number of legal representatives of the concerned ethnic and national minorities.

I am convinced that the proper application of a **European Charter of Autonomies** could provide a major tool for the just and lasting prevention of ethnic, national and religious minority tensions in the world. It could provide us with a key to an appropriate and viable long-term solution. I strongly believe that to struggle for such a correct, peaceful solution, is a common task for all of us.