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NTA as Political Strategy in Central and Eastern Europe

David J. Smith

7.1 Introduction

During the last two decades, post-communist Central and Eastern Europe (CEE) has witnessed a proliferation of new national minority legislation based on the principle of non-territorial autonomy (NTA). Such laws have been adopted by at least eight states of the region, with varying degrees of practical implementation. The best-known examples are Hungary and the Russian Federation, which are currently home to 1,200 and 900 minority cultural self-governments respectively. NTA legislation has also been revived in Estonia (based loosely on a famous law adopted during the 1920s). Thus far this has been implemented only by the country's small Finnish and Swedish minorities, though one can point to an emerging debate over the potential applicability of NTA for Estonia's much larger Russian-speaking population. NTA also formed the basis for minority legislation put before parliament in Romania at the start of 2005. In this case the proposals were not adopted. However, the question of autonomy for Romania's Hungarian minority in particular remains a key item on the national and wider regional political agenda.

NTA has thus become an increasingly salient feature of minority politics in contemporary CEE. As such, it has attracted growing attention from international organizations working in the field of minority rights, such as the Council of Europe

(CoE) and the [Organization for Security and Co-operation in Europe \(OSCE\)](#).¹ Yet, for all this, there remain important gaps in the academic literature surrounding the revival of the model. While one can point to several excellent case studies of individual countries, there is still a surprising lack of detailed comparative research on the origins of current NTA arrangements and proposals, the political strategies behind them, and the underlying understandings of statehood, state-minority relations, and minority rights that they bring to bear.

The aim of this chapter is to examine these questions in relation to the aforementioned four country cases (Estonia, Hungary, Romania, and Russia). In so doing, it will also seek to locate these cases within wider debates around minority rights in post-communist Europe. The current minority rights agenda for the region can be seen as being driven by two imperatives: the first of these involves the political management of ethnic diversity in the interests of political stability and state consolidation, seeking to balance cultural recognition for different ethnicities with the maintenance of civic cohesion and existing state borders.² A second related agenda—until now more informed

¹ Venice Commission, *The Participation of Minorities in Public Life* (Strasbourg: Council of Europe Publishing, 2008)[not in biblio]; Max van der Stoep, *Peace and Stability through Human and Minority Rights: Speeches by the OSCE High Commissioner on National Minorities* (Baden-Baden: Nomos Verlagsgesellschaft, 1999), p. 172.

² Aviel Roshwald, 'Between Balkanisation and Banalisation: Dilemmas of Ethno-Cultural Diversity', in *Cultural Autonomy in Contemporary Europe*, edited by David J. Smith and Karl Cordell (London: Routledge, 2008).

by western understandings of multiculturalism—is around democratization and boosting participation of minorities in public life.³ From the standpoint of state and minority actors as well as those international organizations overseeing the European minority rights regime, NTA is seen as having the potential to support both of these agendas.⁴ At the

³ Will Kymlicka, ‘Nation-Building and Minority Rights: Comparing West and East’, *Journal of Ethnic and Migration Studies*, vol. 26 (2000): pp. 183–212; Will Kymlicka, ‘Western Political Theory and Ethnic Relations in Eastern Europe’, in *Can Liberal Pluralism be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*, edited by Will Kymlicka and Magda Opalski (Oxford: Oxford University Press, 2001); Will Kymlicka, ‘The Rise and Fall of Multiculturalism?: New Debates on Inclusion and Accommodation in Diverse Societies’, in *The Multiculturalism Backlash*, edited by Steven Vertovec and Susanne Wessendorf (London/New York: Routledge, 2010).

⁴ See, for example, High Commissioner on National Minorities, ‘The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note’ (adopted September 1999), accessed 6 February 2013,

<http://www.osce.org/hcnm/32240?download=true>, p. 29; Advisory Committee on the

Framework Convention for the Protection of National Minorities, Third Opinion on

Hungary (adopted on 18 March 2010), ACFC/OP/III(2010)001, accessed 27 November

2012,

[http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_3rd_OP_Hungary_en.](http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_3rd_OP_Hungary_en.pdf)

[pdf](#). Note also the Council of Europe’s characterization of Hungary’s 1993 NTA Act as

same time, the perceived viability of the model has differed according to the particular national context, and these diverse experiences have prompted an ongoing debate about the overall pros and cons of this approach.

7.2 The Origins and Main Tenets of NTA

In the western part of Europe, current debates around the political management of ethnic diversity have arisen within the framework of what were already well-established unitary nation states with relatively coherent and overarching societal cultures. In CEE by contrast, managing ethnic diversity has been a central preoccupation from the very outset of the modern state-building process. Within this region, movements for national self-determination originally took hold within the context of empire. Driven by disaffected new intellectual strata amongst subject peoples, they were generally grounded in identification with an ethnically defined community rather than with established political institutions.⁵ In the case of larger, more compactly settled populations, nationalist demands were soon linked to particular territories, which, however imprecisely defined, an ‘ambitious law making it possible for the . . . [recognised] . . . national minorities to participate in decision-making processes’.

⁵ Aviel Roshwald, *Ethnic Nationalism and the Fall of Empires: Central Europe, Russia and the Middle East 1914–1923* (London: Routledge, 2001), p. 5; Miroslav Hroch, *Social Preconditions of National Revival in Europe: A Comparative Analysis of the Social Composition of Patriotic Groups among the Smaller European Nations* (Cambridge: Cambridge University Press, 1985); Rogers Brubaker et al., *Nationalist Politics and Everyday Ethnicity in a Transylvanian Town* (Princeton: Princeton University Press, 2006), pp. 27–46.

were deemed to be the national homeland of the group in question. This territorial frame of reference was, however, inherently problematic given the ethnically mixed patterns of settlement within the region, which meant that however one drew the lines, ethno-national and political boundaries would never be fully congruent. In some cases, indeed, particular nationalities were so dispersed in terms of settlement that it would be hard to envisage that their demands might be satisfied to any degree at all by territorial means.

It was this contention that led Karl Renner and Otto Bauer to propound their original theory of NTA back at the turn of the twentieth century. Arguing that demands for national self-determination had to be accommodated within an ethno-federalist conception of statehood, they insisted that national rights (understood primarily as the right to maintain and practise one's distinct culture) should not be allocated to particular territorial sub-units of the state, but rather to collectivities of individual citizens who had freely affiliated themselves to a national register. This national register would form the basis for the election of national-cultural self-governments, which would assume responsibility for schooling and other cultural matters of specific concern to the particular ethnicity and would, inter alia, have the right to levy additional taxes on those who had signed up to the relevant national register.⁶ This approach was diametrically opposed to the then-established nation state concept based on cultural homogenization of political space. Instead, Renner and Bauer envisaged the state as a shared territorial space

⁶ Otto Bauer, *The Question of Nationalities and Social Democracy* (Minneapolis/London: University of Minnesota Press, 2000); Karl Renner, 'State and Nation', in *National Cultural Autonomy and its Contemporary Critics*, edited by Ephraim Nimni (London/New York: Routledge, 2005).

inhabited by autonomously organized ethno-national groups. Their reasoning was that if each group could cater for its own cultural needs, this would leave the overall state government and territorially based local administrations to focus on more ‘nationally neutral’ matters of concern to all citizens.⁷

7.3 Institutional Legacies in Central and Eastern Europe

Renner and Bauer’s ideas proved highly influential amongst democratizing movements in the Habsburg and tsarist Russian empires during the early years of the twentieth century. They were subsequently marginalized as the old empires collapsed under the combined pressures of world war and revolution, yet their thinking was in many ways vindicated by the nature of the ‘new’ Central and Eastern Europe that arose on the basis of the western-brokered peace settlement and the Bolshevik assumption of power in Russia. The doctrine of national self-determination may have been proclaimed as one of the cornerstones of the peace settlement, but it was largely disregarded in the case of nationalities such as the Germans, Hungarians, and Galician Ukrainians. In so far as the victorious western allies did uphold this doctrine, moreover, they applied it on a territorial basis, seeking to give selective ethno-national groups ‘a state of their own’. This notion of ethnic ownership over territory was fundamentally at odds with the plural society character of the new states, all of which contained substantial ethno-national minority populations. Within the ‘nationalizing’ state context of interwarCEE, belonging to a particular ethno-national minority was seen as incompatible with belonging to national political communities defined in narrowly ethnic terms. This understanding was accentuated further in the case of minorities (such as Germans and Hungarians), which

⁷ Bauer, *The Question of Nationalities*, pp. 284–8.

could be linked by virtue of their ethnicity to a neighbouring state that harboured irredentist political elements. The ‘triadic nexus’ of state, minority, and external homeland nationalisms became a major source of instability and conflict within interwar Central Europe, contributing to the disaster that befell the region after 1933.⁸

Interestingly, one exception to the rule (at least during the democratic 1920s) was to be found in the Baltic states of Estonia, Latvia, and Lithuania: established outside the framework of the peace settlement, these all established forms of NTA that were deemed successful in mitigating inherited tensions between the new states and their minorities.⁹

In the case of the USSR, the Soviet regime also sought to manage the multinational legacy of empire on a territorial basis. Guided by the maxim ‘national in form, socialist in content’, it allocated a designated ‘homeland’ to each of the largest ethnic groups living within the Soviet state. Once again, however, this territorially based approach could hardly accommodate the full spectrum of ethno-national diversity that existed. For instance, in the case of the Russian Republic (itself configured along federal lines) only 41 of the 127 officially acknowledged nationalities had territorial autonomy, leaving the other 86 without any form of recognition. Even where territorial autonomy had been granted, a significant proportion of the group in question typically resided outside the borders of the designated ethnic homeland. On the basis of this, Codagnone and Filippov concluded that ‘only about ten million individuals in Russia, out of the 27

⁸ Rogers Brubaker, *Nationalism Reframed. Nationhood and the National Question in the New Europe* (Cambridge: Cambridge University Press, 1996).

⁹ David Smith and John Hiden, *Ethnic Diversity and the Nation State: Cultural Autonomy Revisited* (London/New York: Routledge, 2012).

million non-ethnic Russians, could benefit from the protection offered by the principle of territorial autonomy'.¹⁰ Coupled with the recording of personal ethnicity within passports, this policy thus 'institutionalized both territorial-political and personal-ethnocultural models of nationhood as well as the tension between them'.¹¹ The only group to benefit from any form of extra-territorial national rights under the Soviet ethno-federal system was ethnic Russians, who were encouraged to identify with the entire USSR as their homeland. The status of Russian as the language of inter-national communication within the Soviet state meant that Russians were able to live and work within the non-Russian union republics without necessarily having to learn the local language. Once again, however, this system proved to be a source of tension in the 1980s when political space was opened up for the expression of ethno-regionalism within individual union and autonomous national republics.

These institutional legacies of the past have profoundly shaped debates over the political management of ethnic diversity both within post-communist Central Europe and within the new states established following the demise of the USSR. It would clearly be inappropriate to draw too close a parallel between interwar and contemporary CEE. Nevertheless, continued trends towards ethnicization of politics within a post-communist setting, coupled with the bloodshed that occurred in former Yugoslavia and parts of the

¹⁰ Cristiano Codagnone and Vassily Filippov, 'Equity, Exit and National Identity in a Multinational Federation: The "Multicultural Constitutional Patriotism" Project in Russia', *Journal of Ethnic and Migration Studies*, vol. 26, no. 2 (2000): pp. 263–88. See also Vera Tolz, *Russia: Inventing the Nation* (London: Arnold, 2001), p. 251.

¹¹ Brubaker, *Nationalism Reframed*, p. 45.

USSR during the early 1990s, elicited fears of wider conflict, instability, and continued territorial fragmentation. This in turn hastened efforts to establish a robust European minority rights framework of the kind that had previously proved so elusive during the 1920s and 1930s. While one key concern has been around issues related to ethnicity and territory in states with historically contested borders, international attention has also focused on the plight of the region's largest stateless minority, the Roma, living in dispersed fashion across several countries of the region and subject to increased socio-economic marginalization and discrimination within the context of post-communist transformation. It is against this background that contemporary manifestations of NTA must be situated. In what follows I will briefly run through four case studies and some of the debates that have surrounded them.

7.4 Hungary and Hungarian Minorities in Central Europe

In looking at the revival of NTA within Central and Eastern Europe, it is appropriate to start with Hungary, which was the first state to espouse the concept following the fall of communism and which has since adopted by far the most comprehensive legal framework in this area. Hungary's pioneering work in the area of NTA can be seen to derive partly from the comparatively small share of the population that claims to belong to a national minority. While some say that the actual figure is as high as 10 per cent, the 2001 census gave a figure of 4.34 per cent.¹² With the partial exception of the Roma

¹² European Commission for Democracy through Law (Venice Commission), 'Opinion on the Act on the Rights of Nationalities in Hungary' (adopted 15–16 June 2012,

Venice), accessed 27 November 2012, [\[AD\\(2012\\)011-e.pdf\]\(http://www.venice.coe.int/docs/2012/CDL-AD\(2012\)011-e.pdf\), p. 3.](http://www.venice.coe.int/docs/2012/CDL-</p></div><div data-bbox=)

minority concentrated in the country's north-east, these minority populations also live in a territorially dispersed fashion, meaning that an NTA law appears well suited to this particular context. In this regard, the parliamentary debates of 1993 made reference to the similar context that lay behind Estonia's celebrated 1925 law, which catered primarily for the needs of a territorially dispersed German minority population within a state where minorities made up scarcely more than one in ten of the population.¹³

Initially adopted in July 1993 to widespread international acclaim, Hungary's minority law enshrined the right to cultural autonomy for thirteen 'indigenous' national minorities (Bulgarians, Greeks, Croatians, Poles, Germans, Armenians, Roma, Romanians, Carpatho-Rusyns, Serbs, Slovaks, Slovenes, and Ukrainians), which could trace their presence in the country back at least a hundred years. The impetus for the law came at least partly from minority representatives, apparently keen to reverse assimilationist trends that had intensified during the communist era. Minority interest in autonomy on the basis of NTA is further evidenced by the establishment of more than 1,200 cultural self-governments at various levels within Hungary during the decade or so after 1993.¹⁴

At the same time, the remarkable share of the parliamentary vote in favour of the 1993 legislation (96.5 per cent), testifies to overwhelming support amongst the ranks of

¹³ Krizsán Andrea, 'The Hungarian Minority Protection System: A Flexible Approach to the Adjudication of Ethnic Claims', *Journal of Ethnic and Migration Studies*, vol. 26 (2000): p. 250.

¹⁴ Balázs Dobos, 'The Development and Functioning of Cultural Autonomy in Hungary', *Ethnopolitics*, vol. 6, no. 3 (2007): p. 456.

the ethnic majority. Indeed, according to several authors, the law (at least in its initial incarnation) was very much a top-down initiative in which the specific interests of Hungary's minorities were subordinate to those of the state and its dominant ethnic group. The small numerical size of domestic minorities meant that initial post-communist state and nation-building was informed less by concerns over internal stability and political integrity than it was by the question of negotiating the relationship between the state and the numerically significant ethnic Hungarian minorities living in neighbouring states. For András László Pap, the law was inspired at least partly by a sincere desire to compensate for the pain and suffering that the 'traditional' ethno-national communities of the region had had to endure over preceding decades.¹⁵ Uppermost in legislators' thinking, however, was the specifically Hungarian historical experience arising from the 1920 Treaty of Trianon and its dismemberment of ethnic Hungarian areas of settlement, the legacy of which 'has never disappeared entirely'.¹⁶ This in turn informed a 'constitutionally articulated responsibility for out-border diaspora Hungarians' within post-1989 Hungary.¹⁷

¹⁵ András László Pap, 'Minority Rights and Diaspora-Claims: Collision, Interdependence and Loss of Orientation', in *Beyond Sovereignty: From Status Law to Transnational Citizenship*, edited by Osamu Ieda (Sapporo: Hokkaido University Slavic Research Center, 2006), pp. 243–7.

¹⁶ George Schöpflin, 'Hungary and the EU', in *Beyond Sovereignty: From Status Law to Transnational Citizenship*, edited by Osamu Ieda (Sapporo: Hokkaido University Slavic Research Center, 2006), p. 216.

¹⁷ Pap, 'Minority Rights and Diaspora-Claims', p. 248.

Most authors would share Pap's view that the July 1993 law constituted a form of 'trade currency' in Hungary's external support for claims made in relation to the Hungarian 'diaspora' living in neighbouring states.¹⁸ According to this interpretation, Hungary sought to position itself as a pacesetter in the field of minority rights so as to acquire the moral legitimacy to ask the same of other countries, while also enhancing its credentials as a prospective member of the European Union (EU). In this respect, the championing of NTA served to strengthen Hungary's reputation as a purveyor of 'non-territorial policy innovations'.¹⁹ Taken together with bilateral treaties signed between Hungary and neighbouring states containing Hungarian minorities, it would help to press the case for collective minority rights claims while mitigating claims that Hungarian autonomy constituted a potential threat to state sovereignty and territorial cohesion in the region.

Such an assessment of underlying strategy invites an assessment of the NTA framework from the standpoint both of Hungary's internal minorities and of Hungarian minorities abroad. As regards the former, one key question has related to the representativeness of the autonomous institutions created after 1993. At the time the law was adopted, many citizens of Hungary from a minority background were apparently

¹⁸ Pap, 'Minority Rights and Diaspora-Claims', p. 243. In this regard see also Krizsán, 'The Hungarian Minority Protection System'.

¹⁹ Sherill Stroschein, 'Territory and the Hungarian Status Law: Time for New Assumptions?', in *Beyond Sovereignty: From Status Law to Transnational Citizenship*, edited by Osamu Ieda (Sapporo: Hokkaido University Slavic Research Center, 2006), p. 95.

reluctant to declare publicly their ethnicity, due to a collective memory of past ethnically based oppression during and after World War II. The original 1993 law thus did not use national registers as a basis for electing minority self-governments; rather, participation in elections was open to all citizens residing within the relevant electoral district. This approach, however, gave rise to the practice generally known as ‘ethno-business’ whereby political entrepreneurs were in some cases able to pose as minority representatives simply in order to gain access to public office and the entitlements that flow from this.²⁰

Perceived abuses of this kind were one factor behind a 2005 amendment to the NTA law, which introduced an obligatory system of enrolment on national registers for candidates and voters alike. A more recent Act on the Rights of Minorities has also sought to address the problem of ethno-business through recourse to census data: from 2014 (when new electoral provisions introduced by the Act will come into force), it will not be permissible to organize elections to a minority self-government in a district where the 2011 census indicates that the given minority group is not present above a defined numerical threshold. The 2005 amendment has also been hailed as a step forward in addressing what many commentators saw as shortcomings in the effectiveness of the minority institutions.²¹ Not least, the revised law incorporated firmer guarantees relating

²⁰ Krizsán, ‘The Hungarian Minority Protection System’; Dobos, ‘The Development and Functioning of Cultural Autonomy’; Balázs Visi, ‘Hungary: A Model with Lasting Problems’, in *Minority Rights in Central and Eastern Europe*, edited by Bernd Rechel (London/New York: Routledge, 2009), pp. 124–126.

²¹ Advisory Committee, ‘Third Opinion on Hungary’, p. 14.

to the functional and financial independence of minority self-governments, several of which have since been able to establish schools and take over the running of other cultural institutions.²² Moreover, in response to external recommendations by the Council of Europe, the 2011 Act on National Minorities establishes detailed regulations governing the legal status and competences of minority self-governments and their rights of advocacy in relation to state and municipal authorities, while provisions are now in place for minority representation within the national parliament.²³ Even so, periodic monitoring reports allude to a continued lack of clarity regarding the extent of resources to be made available to minority self-governments and the modalities for accessing them. The recent economic crisis has also brought cuts in funding, which is highlighted as a particular issue in relation to Roma self-governments.²⁴

Given that over half of the self-governments established between 1993 and 2002 operate in the name of the Roma minority, particular questions arise regarding the extent to which NTA has helped to further the societal integration and effective interest representation of what is Hungary's largest and most marginalized minority.²⁵ In this regard, early criticism of the framework pointed to the fact that NTA was not embedded within a broader overarching strategy to address issues of Roma discrimination and

²² Advisory Committee, 'Third Opinion on Hungary', p. 23.

²³ Act CLXXIX 2011.

²⁴ European Commission for Democracy through Law, 'Opinion on the Act on the Rights of Nationalities in Hungary', p. 14; Advisory Committee, 'Third Opinion on Hungary', pp. 23–24.

²⁵ Dobos, 'The Development and Functioning of Cultural Autonomy', p. 465.

exclusion.²⁶ A more cynical view would be to see NTA as a substitute for such a strategy, enabling the state to claim symbolically that it was giving rights to the Roma, thereby drawing attention away from more substantive issues while simply entrenching pre-existing ethnic boundaries within society and encouraging the pursuit of narrow sectional interests by different groupings within the Roma ethno-political sphere.²⁷ Hungary has subsequently been hailed for the establishment of an Equal Treatment Authority in 2005 and the adoption of a strategic action plan to implement a ‘decade of Roma integration’ programme for 2007–15.²⁸ At the same time, there remains deep concern over a recent ongoing upsurge in discrimination and violence against Roma.

If one turns to look at the external dimension, one can clearly point to NTA as a feature of Hungarian minority political debate and practices in neighbouring countries. One case falling outside the scope of this chapter is Serbia, where Hungarian minorities have moved to implement a 2009 NTA law adopted as part of the country’s ongoing discussions on accession to the EU.²⁹ From the standpoint of the Serbian state and the

²⁶ Visi, ‘Hungary: A Model with Lasting Problems’, pp. 128–31.

²⁷ Martin Kovats, ‘The Good, the Bad and the Ugly: Three Faces of “Dialogue”—the Development of Roma Politics in Hungary’, *Contemporary Politics*, vol. 3 (1997): pp. 55–71; Martin Kovats, ‘The Political Significance of the First National Gypsy Minority Self Government in Hungary’, *Contemporary Politics*, vol. 6 (2000): pp. 247–62.

²⁸ Advisory Committee, ‘Third Opinion on Hungary’.

²⁹ For an initial overview of activities within this framework, see Magyar Nemzeti Tanács, ‘Beszámoló a Magyar Nemzeti Tanács kétéves tevékenységéről 2010. június 30.—2012. június 30’ [Report on the Activities of the Hungarian National Council, 30

current sensitive issues relating to its territorial integrity, NTA could be seen as a useful means of undermining any potential Hungarian territorial claims focused on Vojvodina, which already benefits from devolved government. In Romania, by contrast, proposals for Hungarian NTA have also been advanced periodically, but have yet to be taken on board by the state. In this case, an ethnic Hungarian party (The Democratic Union of Hungarians in Romania (in Romanian UDMR)) has participated actively in coalition governments since the mid-1990s and has been able to secure minority rights that are far-reaching by regional standards, including provision for mother-tongue education from primary to university level, public use of the Hungarian language in areas where Hungarians make up more than 20 per cent of the local population, and a Department for Inter-Ethnic Relations which cooperates with a consultative Council of National Minorities drawn from NGO representatives.³⁰

UDMR has nevertheless faced a growing challenge from smaller parties and organizations outside parliament, such as the Szekler National Council, Hungarian Civic

June 2010–June 30, 2012], *Magyar Nemzeti Tanács: Subotica* (2012): pp. 122–178.[not in Biblio]

³⁰ Melanie Ram, ‘Romania: From Laggard to Leader?’, in *Minority Rights in Central and Eastern Europe*, edited by Bernd Rechel (London/New York: Routledge, 2009); pp. 182–4; Second Report submitted by Romania pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities (received on 6 June 2005), accessed 27 November 2012,

http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_2nd_SR_Romania_en

[.pdf](#), pp. 5–8.

Alliance, and the Hungarian National People's Party of Transylvania. These have accused UDMR of being unduly acquiescent to the agenda of the Romanian majority and have advanced demands for more far-reaching recognition, including territorial autonomy for the compactly settled Hungarian population in the Szeklerland area of Transylvania. Against this background, UDMR has since the 1990s pursued its own project of fuller cultural autonomy for the Hungarian minority; mindful of historically framed Romanian nationalist sensitivities over the status of Transylvania, however, it has framed autonomy in non-territorial terms.³¹ In early 2005, during the run-up to Romania's EU accession, the party tabled a draft minority law based on Estonia's historic NTA model.³² This approach was contested by UDMR's political opponents within the Hungarian community, which claimed that the proposed law would give UDMR an effective monopoly on decision-making. Additional external protection for the Hungarian minority would, they argued, only be achieved at the expense of its internal democracy.³³

³¹ Gabriel Andreescu, 'Universal Thought, Eastern Facts: Scrutinizing National Minority Rights in Romania', in *Can Liberal Pluralism be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*, edited by Will Kymlicka and Magda Opalski (Oxford: Oxford University Press, 2001).

³² Christopher D. Decker, 'Enhancing Minority Governance in Romania: Report on the Presentation on Cultural Autonomy to the Romanian Government', *European Centre for Minority Issues Report*, no. 53 (2005), accessed 13 September 2010, http://www.ecmi.de/download/Report_53.pdf.

³³ Gabriel Andreescu, 'Cultural and Territorial Autonomy and the Issue of Hungarian Identity', *Hungarian Studies*, vol. 21, nos 1–2 (2007): pp. 61–84.

In any event, the draft tabled in 2005 failed to pass. According to the Romanian constitution, the status of national minorities is to be regulated by an organic law requiring an absolute majority in both houses of the Romanian parliament and this proved impossible to achieve.³⁴ In this respect, it seems that even proposals for NTA could not transcend securitized, ‘nationalizing’ discourses on state and nation-building within Romania, which see any prospect of further Hungarian rights as potentially threatening to the integrity of the state.³⁵ From an EU standpoint, moreover, the absence of such legislation did not prove to be a barrier to Romania entering the EU in 2007. At the time of writing, a general minority law has still to be adopted, with the subsequent period having seen a growth in populist nationalist rhetoric and political tensions around issues of historical commemoration, property restitution, and territorial-administrative boundaries within Transylvania. As regards the latter issue, UDMR has argued for the integration of the three Szeklerland counties into a single administrative entity, in the face

³⁴ European Commission for Democracy through Law (Venice Commission), ‘Opinion on the Draft Law on the Statute of National Minorities Living in Romania’, (adopted 21-22 October 2005), CDL-AD(2005)026, accessed 28 November 2012, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2005\)026-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2005)026-e); Christopher D. Decker, ‘The Use of Cultural Autonomy to Prevent Conflict and Meet the Copenhagen Criteria: The Case of Romania’, in *Cultural Autonomy in Contemporary Europe*, edited by David J. Smith and Karl Cordell (London: Routledge, 2008).

³⁵ Decker, ‘The Use of Cultural Autonomy to Prevent Conflict and Meet the Copenhagen Criteria’, pp. 111–12.

of government proposals to amalgamate these into separate regions, each with an overall ethnic Romanian majority.³⁶

7.5 NTA in Estonia

The fact that the draft 2005 law was ultimately rejected by Romania's parliament suggests that even proposals for a non-territorial form of autonomy can be hard-pressed to transcend nationalizing discourses on state and nation-building in today's CEE. A similar point could be made in relation to contemporary Estonia, where NTA was reintroduced against the background of a state and nation-building project predicated on the political marginalization of the large Russian-speaking settler population established during the Soviet era. Within this context—and specifically in light of international debates around Estonia's policy on citizenship—it would appear that cultural autonomy was readopted primarily with an eye to bolstering Estonia's external image and its standing in the eyes of the West. Indeed, legislators openly alluded to this function during the parliamentary debates that preceded the adoption of the law in 1993.³⁷ In terms of legacies, this legislation connected symbolically with a 1920s 'golden age' of democracy, which constituted a usable past in the context of Estonia's efforts to 'return to Europe'

³⁶ Ioana Lupea, 'Acceptance or Lack of Tolerance towards Minorities in Romanian Public Administration', *Accept Pluralism Policy Brief Issue*, no. 14 (2012), accessed 28 November 2012,

http://cadmus.eui.eu/bitstream/handle/1814/24379/ACCEPT_PLURALISM_PB_2012_14_Romania.pdf?sequence=1.

³⁷ David J. Smith, 'Cultural Autonomy in Estonia. A Relevant Paradigm for the Post-Soviet Era?' ESRC, 'One Europe or Several?', *Working Paper 19* (2001): p. 34.

during the early 1990s. Above all, it could be held up as proof the titular nationality had historically taken a tolerant attitude towards national minorities living within Estonia, thereby ascribing all current ethnic tensions to the legacies of illegitimate Soviet rule.

The actual practical relevance of the cultural autonomy law seems more open to question. Spokespersons for Estonia's Finnish and Swedish minorities have been able to establish their own cultural councils under the terms of the law, but there are still no legal provisions governing the public-legal status or competences of these bodies. This obviously limits the possibilities for minority cultural development through NTA structures.³⁸ From the standpoint of the much larger Russian minority, one key issue relates to the provision that only citizens can vote for and be elected to minority self-governments. Since a significant part of the Russian population remains without full citizenship, they are not deemed to form part of a 'genuine' national minority and so remain outside the NTA framework. In spite of this, Russian representatives have submitted applications for NTA on three occasions during the past six years. All, however, have been rejected.

³⁸ Holger Berg, 'Ingerisoomlased võivad saavutada kultuurautonoomia sügiseks' [Ingrian Finns Could Achieve Cultural Autonomy in the Autumn], *Eesti Päevaleht* (2003), accessed 20 June 2012, <http://www.epl.ee/news/eesti/ingerisoomlased-voivad-saavutada-kultuurautonoomia-sugiseks.d?id=50959337>; T. Kabanen, 'Soome vähemusrahvuse kultuuriautonoomiaast' [On Cultural Autonomy for the Finnish National Minority], 2006, accessed 7 June 2012, <http://www.isamaaliit.com/category/toivo-kabanen-blogi-reformierakond/>.

In recent discussions around NTA for the Russian-speaking minority, one discerns a fear on the part of ethnic majority representatives that such institutions would become a ‘state within a state’ and a vehicle for external influence by Russia, especially given the numerical size of the Russian-speaking minority and its territorial concentration, particularly in north-eastern Estonia.³⁹ Perhaps more importantly, the presence of the large Russian-speaking minority has been framed within the dominant political discourse as a threat not only to state security, but also to the societal security of the majority ethno-national group. The numerically small size of the ethnic Estonian population, coupled with the bi-national state order inherited from the USSR, means that continued recognition for the Russian language can be construed as perpetuating trends towards Russification of public life that were so evident during the Soviet era and which were held up as a threat to the longer-term survival of titular national language and culture. Such societal security considerations can be also discerned to a lesser extent in the case of Romania, but seemingly did not feature in NTA debates within Hungary. In the latter case any societal security concerns have taken the broader transnational Hungarian diaspora as their referent object rather than Hungarians living within the boundaries of the existing state.

Against this background, cultural policy in Estonia has focused squarely upon integrating the Russian-speaking minority into a common societal core, within the framework of a unitary nation state. De facto, it is still possible to speak of Russian

³⁹ Aleksandr Aidarov and Wolfgang Drechsler, ‘The Law and Economics of the Estonian Law on Cultural Autonomy for National Minorities and of Russian National Cultural Autonomy in Estonia’, *Halduskultuur*, vol. 12, no. 1 (2011): pp. 43–61.

minority autonomy, in so far as the network of Russian-language schools inherited from the Soviet era has continued to operate since 1991 under the auspices of local municipalities.⁴⁰ Under current educational legislation, however, a bilingual system of education (70 per cent Estonian to 30 per cent Russian) is being gradually phased in at upper secondary level (Grades 10–12, ages 16–19). One of the central arguments that Russian-speaking political representatives advance in favour of NTA is that it would allow Russian speakers to opt out of this system and maintain their own full system of native-language schooling, financed partly by state and municipal authorities and partly by the community itself.⁴¹ Available evidence, however, suggests that the Russian-speaking society is divided over the way forward: many are seemingly willing to accept the transition to bilingualism, with the main point of debate relating to the speed at which the transformation should take place; other more uncompromising elements, meanwhile, have argued for preservation of the system inherited from the USSR, asking why, as taxpayers, they should not be entitled to educational provision solely under state auspices.⁴² A further (very small) group would see NTA as offering insufficient recognition of Russian speakers' status within Estonia, and thus continues to argue for full territorial-political autonomy of the kind advocated by Soviet-era elites in Estonia's

⁴⁰ Here Russian political representation is far more extensive than at the national level, since the local election of law of 1993 allows all permanent residents to vote in local elections and not just citizens of the state.

⁴¹ *Russkaia Kulturnaia Avtonomiia Estonii 2006* [Russian Cultural Autonomy of Estonia]

⁴² E. Kekelidze, 'Eto budet estonskii variant' [It will be the Estonian Variant], *Estoniia* (1992).

Russophone north-east during 1990–93.⁴³ In light of these divisions, numerous commentators (both ethnically Estonian and ethnically Russian) have questioned whether those advancing the NTA project are in fact genuinely representative of the minority in whose name they purport to speak, prompting claims that the Russian-speaking population is simply ‘too large’ to be accommodated by a framework of this kind, and that the scheme would serve only to introduce new lines of in-group division and dissension.⁴⁴

7.6 NTA in the Russian Federation

⁴³ David J. Smith, ‘Narva Region within the Estonian Republic: From Autonomism to Accommodation?’, *Regional and Federal Studies*, vol. 12, no. 2 (2002): pp. 89–110; I. Oprichnin, ‘Chitatel’ Delfi: kul’turnaia avtonomiia ne reshit problem’ [Delfi Reader: Cultural Autonomy Will Not Solve the Problems], *Rus.delfi.ee*, 20 March 2011, <http://journalist.delfi.ee/news/news/chitatel-delfi-kulturnaya-avtonomiya-ne-reshitproblem.d?id=42402895>.

⁴⁴ See, for instance, ‘Juhtkiri: Liiga suur, et olla autonoomne?’ [Editorial: Too Big to Be Autonomous], *Eesti Päevaleht*, 29 December 2009. The perceived non-representative nature of the organization that originally advanced NTA in 2006 was cited as one of the key reasons for the state’s rejection of the proposal. See ‘MTÜ Vene Kultuuriautonomia pöördus riigikohtusse’ [Russian Cultural Autonomy NGO Turns to the Supreme Court], *Postimees*, 2 July 2010, <http://www.postimees.ee/283338/print/mtu-vene-kultuuriautonomia-poordus-riigikohtusse>.

If Estonian perceptions and experiences of NTA can be situated within what is essentially a modernist agenda of state and nation-building, the initial adoption of this model by the Russian Federation during the 1990s occurred within the context of an institutionally multinational state structure inherited from the USSR. Specifically, the 1996 National Cultural Autonomy (hereafter NCA) Act was introduced as part of a new conception of state national policy designed to strengthen ‘multicultural constitutional patriotism’—an overarching civic conception of nationhood encompassing all inhabitants of the Federation.⁴⁵ In this respect, the existing model of ethno-territorial federalism inherited from the USSR was seen to have a number of limitations. First, as already noted above, this system was not seen to accommodate adequately all of the ethno-national groups within the population. A second issue, according to several authors, was a concern that territorial federalism might undermine the overall territorial integrity of the state. In August 1990 during his struggle with the Soviet leadership, Boris Yeltsin had famously invited Russia’s national republics ‘to take as much sovereignty as they could swallow’.⁴⁶ With a number of republican leaders taking Yeltsin at his word, the post-Soviet period saw the emergence of a separatist conflict in Chechnya and a constitutional dispute between the Federal Government and Tatarstan. Given the recent experience of the fall of the USSR, fears arose of a continued trend towards ‘matrioshka nationalism’ that might

⁴⁵ Codagnone and Filippov, ‘Equity, Exit and National Identity’, p. 266.

⁴⁶ Christopher Marsh, *Unparalleled Reforms: China’s Rise, Russia’s Fall, and the Interdependence of Transition* (Lanham: Lexington Books, 2005), p. 55.

lead to the unravelling of the newly established Federation.⁴⁷ The overall picture that emerged in the 1990s was one of asymmetrical federalism, whereby local leaders indeed sought to grab as much power and resources as possible, to the detriment of overall state cohesion. There were also concerns over trends towards ‘nationalizing’ practices at the level of the national republics that might provoke local level horizontal conflicts between different ethnicities inhabiting these territories.

It was against this background that the new state conception and the NCA law were launched in June 1996. These were associated first and foremost with Valery Tishkov, academic expert on ethnicity and nationalism and Russian Federation Nationalities Minister during 1992. Tishkov never proposed the abolition of territorial autonomy: the 1996 conception made it plain that NCA was to be a complement to the system of national republics, the constitutional position of which remained unchanged. All the same, it was clearly hoped that NCA would serve as a counterbalance to the republics and thus help to limit from below the power of ‘ethnocratic’ elites within these territories. Overall, the conception was notable for its emphasis on consolidating ‘a civic and spiritual-ethical community of all Russia’ and its lack of any reference to the role of

⁴⁷ Ray Taras, ‘Conclusion: Making Sense of Matrioshka Nationalism’, in *Nations and Politics in the Soviet Successor States*, edited by Ian Bremmer and Ray Taras (Cambridge: Cambridge University Press, 1993); Ray Taras, ‘Conclusion: From Matrioshka Nationalism to National Interests’, in *New States, New Politics: Building the Post-Soviet Nations*, edited by Ian Bremmer and Ray Taras (Cambridge: Cambridge University Press, 1997).

ethno-territorial autonomy in this regard.⁴⁸ Especially revealing in this regard is perhaps Yeltsin's address to the opening session of Russia's parliament in 1994, which asserted that 'no single ethnic group can possess an exclusive right to control over territory, political institutions, and resources'.⁴⁹

Writing in 2000, Codagnone and Filippov claimed that the new state conception of nationality policy had been negatively received by leaders in many of the established territorial republics, who had portrayed this as a strategy of 'divide and rule' designed to promote a long-term policy of assimilation. In this regard, they asserted, republican leaders tried to draw a line of continuity back to the old Soviet-era rhetoric about 'fusion' of the USSR's manifold nationalities into a new 'Soviet people', portraying this as an overtly assimilationist rather than simply integrationist policy.⁵⁰ Yet the practical experience of NTA, both in the 1990s and subsequently, suggests that this view is in need of qualification. In the overwhelming majority of cases, existing territorially based authorities have not sought to block the establishment of national-cultural autonomies (NCAs) within their territories; on the contrary, it seems that they have viewed this as a key means of bolstering their own legitimacy and power base at the regional level.⁵¹ More broadly, it would seem that fears of continued territorial fragmentation and centre-

⁴⁸ Codagnone and Filippov, 'Equity, Exit and National Identity', pp. 276–8.

⁴⁹ Codagnone and Filippov, 'Equity, Exit and National Identity', p. 274.

⁵⁰ Codagnone and Filippov, 'Equity, Exit and National Identity', p. 283.

⁵¹ Alexander Osipov, 'National Cultural Autonomy in Russia: A Case of Symbolic Law', *Review of Central and East European Law*, no. 35 (2010): p. 45.

periphery conflict within Russia were greatly exaggerated during the 1990s, and that Russia's 'stateness' has proved to be far more robust than many predicted at the outset.⁵²

A more salient issue with regard to NCA—and to Russia's 'multicultural constitutional patriotism' project more generally—concerns the growing centralization of state power over the course of the past decade and the prospect of increased pressure both from advocates of a unitary and ethnically neutral approach to state and nation-building and from more 'nationalizing' forces adhering to an overtly ethnic Russian conception of nationhood.⁵³ In light of these centralizing trends, Bill Bowring claimed in 2006 that, ten years on from the adoption of the NCA law, Russia was 'witnessing the end of a fascinating but doomed experiment'.⁵⁴

⁵² Elise Giuliano and Dmitry Gorenburg, 'The Unexpectedly Underwhelming Role of Ethnicity in Russian Politics, 1991–2011', *Demokratizatsiya. The Journal of Post-Soviet Democratization*, vol. 20 (2012): pp. 175–88; Oleh Protsyk and Benedikt Harzl, eds, *Managing Ethnic Diversity in Russia* (Abingdon/New York: Routledge, 2012).[not in Biblio]

⁵³ Codagnone and Filippov, 'Equity, Exit and National Identity', p. 284; Hans Oversloot, 'The Homogeneity of Russia, or the Remains of an Empire (Federalism and Regionalism)', in *Managing Ethnic Diversity in Russia*, edited by Oleh Protsyk and Benedikt Harzl (Abingdon/New York: Routledge, 2012).

⁵⁴ Bill Bowring, 'The Tatars of the Russian Federation and National-Cultural Autonomy: A Contradiction in Terms?', in *Cultural Autonomy in Contemporary Europe*, edited by David J. Smith and Karl Cordell (London/New York: Routledge, 2008), p. 95.

This view would seem to require some qualification, in so far as the number of NCAs at various levels in Russia has continued to grow, from 504 in 2005 to 717 by January 2009.⁵⁵ There remains, however, the question of what practical, social, and political role NCAs actually perform within contemporary Russia. As Bowring has observed, the new bodies of NCA have possessed little in the way of actual powers and resources, to the extent that there was little if anything to differentiate them from pre-existing NGOs.⁵⁶ Alexander Osipov echoes this assessment in a more recent article, pointing to the ‘puzzling’ fact that there is so much demand to establish NCAs when they apparently do so little. Perhaps equally curious is the fact that few commentators, be they state officials, ethnic activists, or academics, have routinely drawn attention to the practical limitations of the NTA model, but have rather continued to discuss the issue in highly abstract terms. This state of affairs leads Osipov to the conclusion that NCA has a largely symbolic function within a Russian context that is still heavily shaped by ethnicized, ‘groupist’ understandings of political participation.⁵⁷ In the latter regard,

⁵⁵ Osipov, ‘National Cultural Autonomy in Russia’, p. 42.

⁵⁶ Bill Bowring, ‘Burial and Resurrection: Karl Renner’s Controversial Influence on the “National Question” in Russia’, in *National Cultural Autonomy and its Contemporary Critics*, edited by Ephraim Nimni (London: Routledge, 2005), p. 203.

⁵⁷ Osipov, ‘National Cultural Autonomy in Russia’, p. 54; Alexander Osipov, ‘National-Cultural Autonomy in Russia: A Matter of Legal Regulation or the Symbolic Construction of an Ethnic Mosaic?’, in *Managing Ethnic Diversity in Russia*, edited by Oleh Protsyk and Benedikt Harzl (Abingdon/New York: Routledge, 2012). See also Chapter 9 in this volume.

Osipov suggests, NCA has served to divert attention away from issues of equality and non-discrimination, allowing the authorities to explain ‘exclusion and conflicts in terms of cultural differences rather than institutional deficiencies and social deprivation’.⁵⁸

7.7 Conclusions

The last two decades have seen the establishment across Central and Eastern Europe of various arrangements bearing the label of NTA. In the same period, international organizations engaged with the region have also referenced the NTA model as a potential mechanism both for regulating state-minority conflicts and for boosting minority participation in public life. Much of the existing literature on the topic, however, has adopted a normative standpoint, focusing on what could and should be done rather than on ‘what actually exists’, why it came into being and how NTA arrangements are understood and evaluated within the societies concerned.⁵⁹ This chapter has briefly examined the political strategies and practices that have driven the creation and informed the operation of relevant institutional frameworks in Hungary, Estonia, and Russia. It has further analysed the case of Romania, where vigorous debates around the NTA model have yet to give rise to actual legislation.

Of the various countries studied, it is Hungary that has the most comprehensive framework in place. The original law adopted in 1993 has twice been amended in line with external recommendations intended to boost the representativeness and effectiveness of minority self-governments. The self-government model has been widely embraced by minority activists, and yet questions remain regarding the actual capacity of these bodies

⁵⁸ Osipov, ‘National Cultural Autonomy in Russia’, p. 54.

⁵⁹ Osipov, ‘National Cultural Autonomy in Russia’, p. 30.

to address issues of central concern to particular groups, especially in the case of the large and socially marginalized Roma minority. Ultimately, most authors concur that the NTA law was originally adopted with an eye not so much to the needs of domestic minorities, but rather to set an example which it was hoped might be replicated (on the basis partly of anticipated EU backing for the model) in neighbouring states containing sizeable ethnic Hungarian minorities. This strategy, however, raised the obvious question of whether those minorities themselves—not to mention the states in question—would embrace the NTA approach.

In the case of Serbia (largely beyond the scope of this chapter), NTA legislation has been developed as part of post-2000 processes of democratization, and this has been implemented by Hungarian activists operating within the framework of an autonomous and multicultural province of Vojvodina. In Romania, NTA has been advocated by the largest ethnic Hungarian political party (UDMR), which has sought to advance minority interests through participation in coalition government. It has, however, been difficult to build a broader consensus over this model amongst Hungarian minority activists. In this regard, political forces within the Hungarian elite have criticized the UDMR approach as overly accommodationist and have advanced their own further-reaching proposals for territorial autonomy based on the compactly Hungarian region of Szeklerland. In any event, political forces representing the Romanian majority have remained opposed to any form of autonomy, which is still viewed in securitized terms, as a potential threat to the unitary character and integrity of the state as a whole.

Securitization of minority issues has also been a defining factor in the Estonian case, where the 1993 law on minority cultural autonomy has never developed beyond a

loose and ill-defined framework. While this law has been utilized by activists belonging to the numerically small Finnish and Swedish minorities, the state has so far rejected attempts to initiate autonomy in the name of the much larger ethnic Russian population. In analysing the situation in Estonia, most authors see the 1993 law as having a mainly symbolic function, within an overall project of building a unitary nation state. Within this context, the relevance of autonomy has been questioned amongst Russian minority activists, who have focused their attentions on issues of citizenship and equality. Beyond this, there seems to be no underlying consensus regarding a framework of ‘positive’ rights for the Russian minority.

In the final case considered here—that of the Russian Federation—NTA appears to have been adopted as part of top-down initiatives designed to consolidate the post-Soviet political community and address imbalances and sub-state nationalizing trends arising from the inherited system of ethno-territorial federalism. In line with practices during the Soviet era, the framework of NCA has allowed for largely symbolic cultural recognition of minority cultures rather than structures geared to boosting minority representation and participation in public life. Seen in terms of its original objectives, however, the approach could be deemed as successful, in so far as NCA has been widely embraced by minority activists as well as local authorities within the various constituent republics of the Federation.

By way of overall conclusion, the various cases discussed in this chapter call to mind Aviel Roshwald’s observation that pointing to the practicalities of NTA is one thing, winning the support of majorities and minorities quite another.⁶⁰ In assessing the

⁶⁰ Roshwald, ‘Between Balkanisation and Banalisation’, p. 37.

potential applicability and viability of NTA as a model, attention clearly has to be paid to issues such as overall ethno-demographic composition of society, settlement patterns, and the degree of minority socio-political cohesion and actorness, as well as to the specific collective memory frames and institutional legacies governing each case.

These cases also bring into focus issues of representativeness, legitimacy and effectiveness of NTA bodies, and a key question raised by Osipov in relation to Russia, namely: why, if cultural autonomy has little practical impact or significance, have so many cultural self-governments been established? This ‘puzzle’ might also be seen as relevant in the case of Hungary. One explanation would be to point to the continued role of inherited communist (and pre-communist) institutional legacies in shaping the understandings of minority rights held by public officials and minority activists alike. By this reading, such rights are interpreted largely through the prism of culture and guaranteeing equal possibilities for the development of all national *groups* (and the prevention of group-based conflicts), rather than through a western liberal paradigm stressing individual rights of representation and participation in the public sphere. In a post-communist context still shaped by informal practices, moreover, minority political entrepreneurs have seen establishment of autonomy bodies as a means of ensuring access to key officials and obtaining influence and funding, regardless of whether the body in question genuinely represents the wider community in whose name it purports to speak.

All of this suggests that in those states where it has been implemented on a significant scale, NTA has had a role in ‘normalizing’ the relationship between states and minorities and consolidating political community according to inherited principles implemented in a top-down manner. Such a state of affairs can hardly be seen as

corresponding with the liberal understanding of minority rights currently promoted by European and Euro-Atlantic international organizations, although further comparative work is needed to ascertain more fully the roles performed by extant NTA bodies in different settings.⁶¹ In the more ‘nationalizing’ state contexts of Romania and Estonia, meanwhile, multinational legacies arising from the communist past have been rejected and proposals for autonomy (at least in the case of larger, more mobilized minorities) viewed as inimical to the vision of constructing a unitary nation state. Against this background, it remains to be seen whether workable NTA arrangements could still be established as part of a longer-term convergence around the minority rights paradigm.

⁶¹ In this regard, note the claim by Dobos, ‘The Development and Functioning of Cultural Autonomy’—echoed by a later 2010 Council of Europe report—that Hungary’s cultural autonomy law of 1993 has in fact significantly boosted minority representation and participation in public life.