



*Robert Schuman*

*Preparing for the New Minorities in Europe:  
The EU Influence on National Minority Protection  
in Romania and Slovakia*

**–Maria Ilcheva**



Jean Monnet/Robert Schuman Paper Series  
Vol.5 No. 25  
August 2005

This publication is sponsored by the EU Commission.

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## **Introduction**

In a speech delivered ten days before the Copenhagen European Council summit in December 2002, Günther Verheugen, the EU Commissioner responsible for enlargement praised the Central and Eastern European candidate countries for their successful transformation. The Commissioner stated:

We see clearly success-stories as regards the system transformation. The Central and Eastern European candidate countries transformed themselves into stable democracies and market economies that are growing even faster than the average of the present EU. They were able to set new rules and new legislation based on EU law and learned to implement it properly. Human ***rights were respected and minorities protected. Nothing within this process is self-evident but is a fantastic result of a human driving-force for reform, mainly driven forward by the enlargement perspective*** (emphasis added, Verheugen 2002).

The Commissioner's affirmation of the progress in minority rights protection and assertion that this progress is a direct result of these countries' aspirations to join the EU illustrate a popular perception, both within the candidate countries and among outside observers, that the drive towards Europe has had a profound impact on domestic developments in these countries. In view of the ethnic conflicts that plagued some of these countries in the 1990s, the enlargement impact on majority-minority relations and minority rights developments is particularly important. While the question why has the EU played such an important role in the candidate countries is very important, the focus of this paper is EU involvement in such a sensitive area like minority rights.

This paper examines the mechanisms and strategies of the EU in supporting the process of democratization in Central and Eastern Europe by concentrating on one particular area which seemed most significant in view of the escalation of ethnic conflict in the region. I focus on the influence of the EU's representatives and institutions in inducing cooperation between states and ethnic groups within states for the purpose of minority rights expansion and implementation by means of the promise of integration. By definition, democratization includes "... the processes whereby the rules and procedures of citizenship are either applied to political institutions previously governed by other principles... or expanded to include persons not previously enjoying such rights and obligations (e.g. ethnic minorities, women, foreign residents, etc.) or extended to cover issues and institutions not previously subject to citizen participation (state agencies, military establishments, etc.)" (Schmitter and O'Donnell, 1986: 8). As early as 1993, the European Council had devised specific criteria for the evaluation of a country's

preparedness to gain membership in the Union, and on par with the economic requirements were political conditions which outlined the road towards integration. The political conditionality for the Central and Eastern European countries' membership was spelled out in the concluding document of the Copenhagen summit on 21-22 June 1993, where the European Council put forward what came to be known as the "Copenhagen criteria" for EU admission: "Stability of institutions guaranteeing democracy, the rule of law, human rights and *respect for and protection of minorities*, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union."<sup>1</sup> While minority rights were never specifically listed or clearly outlined, I will demonstrate that through the statements of its representatives and the official reports European institutions have issued on the countries' progress towards accession, the EU has continuously had an essential role in the expansion of minority rights.

The discussion of the EU's impact on minority policies starts with a brief overview of relevant literature that explains the possible effects of *Europeanization*. It then proceeds with a short discussion on the contentious minority issues in Romania and Slovakia, two countries with significant Hungarian minorities, in the period between the fall of communism and 2004. Although these two countries share a similarity of sizeable Hungarian minorities, they are different in both minority policies that were adopted and, maybe more importantly, in the fact that Slovakia became a member of the EU in 2004. The main part of this article focuses on the role of the European enlargement strategy in the adoption of laws that favor minority rights, with an emphasis on laws in the areas of education, local government and language rights. The focus on these particular areas is warranted by the fact that they are the ones most contested both by minorities and by nationalistic majorities.

An analysis of official documents and statements by political leaders prior to and following the adoption of laws in these areas, with particular references to the accession strategy, demonstrates the European influences. In some cases the European strategy is genuinely considered to require reform in minority policies, but in others it is mostly used to conceal or justify contested acts of governance. In any case, the European accession strategy plays a role which I will demonstrate by analyzing relevant developments in Romania and Slovakia. Romania applied for EU membership on June 22, 1995, only the third country among the Central and Eastern European countries, after Poland and Hungary. Slovakia submitted its application on June 27, 1995. In October 1999 the European Commission recommended that negotiations for their accessions start. Negotiations proceeded differently in the two countries and ultimately Slovakia was put on the fast-track and admitted in 2004, while Romania's accession was delayed at least until 2007.

Finally, I conclude with a brief summary of the implications the accession of ethnically heterogeneous states has for other candidate members from the same region or for the EU itself. The EU committed to further enlargement to incorporate the Western

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<sup>1</sup> **Copenhagen European Council, 21-22 June 1993,**  
[http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/72921.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/72921.pdf)

Balkans in 1999 and since all of these countries have significant minority groups, the EU's strategies used until now, successful or unsuccessful, will be the departing points for responses to minority threats in the regions. Secondly, EU's enlargement to incorporate new Central and Eastern European members has presented the problem of lack of uniform policies towards national minorities. Therefore, it can be expected that the Union will gradually move towards a more consistent approach towards minority issues.

### **Europeanization and Domestic Change in Candidate Members**

The concept *Europeanization* is primarily used to denote institutional and policy changes within the EU (Fetherstone and Radaelli 2003; Cowles, Caporaso and Risse 2001). But, as some academics have already observed, Europeanisation has increasingly become an 'essentially contested' concept (Kassim, 2000, p. 235). Two divergent definitions stand out.

First, Europeanisation is defined as *the emergence and strengthening of institutions of governance at the European level*. For example, Cowles, Caporaso and Risse see it as "the emergence and the development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem-solving that formalizes interactions among the actors, and of policy networks specializing in the creation of authoritative rules (2001: 3). Second, Europeanization is employed to refer to examples where *distinct European forms of organization and governance have been exported outside Europe's territorial boundaries*. It is understood as an "incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making" (Ladrech 1994: 69; See also Buller and Gamble 2002: 17; Radaelli 2000). In that definition, Europeanization is seen as a policy transfer or "a process in which knowledge about policies, administrative arrangements, institutions etc. in one time and/or place is used in the development of policies, administrative arrangements and institutions in another time and/or place" (Dolowitz and Marsh, 1996, p.344).

When discussing Europeanization, most authors focus exclusively on its national or supranational character within the EU and its member states. As Knill and Lehmkuhl observe, "Member states have to bring domestic arrangements into line with a 'European model' which is implicit in the supra-national policy decision" (1999:3). Thus Europeanization encompasses the processes of interpenetration between the supranational and the domestic level (Radaelli 2000). Notwithstanding the danger of conceptual stretching, I argue that Europeanization can and should be applied to explain the adoption of policies in candidate members. The definition of Europeanization that would be most useful as a starting point for studying the European effects on the candidate countries is one articulated by Hix and Goetz, who define it as "a process of change in national institutional and policy practices that can be attributed to European integration" (2000: 27). This definition is broad enough to allow for the inclusion of other variables that could explain outcomes from the Europeanization process in conjunction with the demands of European integration. The importance attributed to European integration by

candidate members does not necessarily entail an unimpeded process of absorption of European norms. The "goodness of fit" measure for Europeanization holds true for candidate countries as much as for EU members (Risse, Cowles, and Caporaso 2001). "Goodness of fit" refers to the degree of pressure for domestic adjustment as a result of institutional and policy (in)compatibility between the European and the domestic level (6-7). But while the outcome of Europeanization within the Union may be convergence or divergence, the candidate states have a much narrower flexibility for action. Divergence from European norms is not an option if the integration process is to lead to accession.

In the candidate countries from Central and Eastern Europe the shift of loyalties and activities towards Europe had started before their actual admission to the Union. Through the principle of conditionality and the commitment of the candidate members to reforms as a prerequisite for their accession, these countries had already started their integration. The candidate members had already shifted their activities in their drive to fulfil EU requirements for accession by submitting their actions and policies for reviews and recommendations from the European institutions. Since the candidate members can exercise little, if any, influence over developments within the Union, a top-bottom approach would be more suitable in explaining the measures taken by these countries to comply with European standards. The argument can be made that when looking at Europeanization as a process within the Union, it is subject to interpenetration from the supranational and the domestic level, whereas the Europeanization of the candidate countries involves their adoption of the *acquis communautaire* "as is," without them being able to exercise control over it. Considering the existing asymmetrical power relationship in which the EU prescribes while candidates adopt and implement, the concept of conditionality would be particularly useful in explaining the mechanisms through which the EU shapes domestic policies in the candidate members.

Conditionality is traditionally used when referring to the "carrot and stick" strategy of the International Monetary Fund in exacting often times painful economic change in impoverished Third World countries. Yet, even though discussions of the "European enlargement" or "Europeanization" are often narrowed down to economical or institutional questions, scholars widely agree that political conditionality is also very important for Central and Eastern Europe. While conditionality in the economic arena relies on specific measures of success and failure, political conditionality that speaks broadly of the rule of law and regards to minority rights is much more subtle. Conditionality is defined as "a basic strategy through which international institutions promote compliance by national governments" (Checkel 2000: 1). It is "the idea to use the fulfilment of stipulated political obligations as a prerequisite for obtaining economic aid, debt relief, most-favored-nation treatment, access to subsidized credit, or membership in coveted regional or global organizations" (Schmitter 1996: 42). In this view, conditionality requires the articulation of a set of agreed upon desirable practices and mandatory, or at least recommended, objectives. But herein lies the problem – the EU lacks a precise and unanimous understanding of what minority rights include. Then, can we talk about EU imposed conditionality on Central and Eastern Europe with regards to minority rights? If

Europeanization is a policy transfer, what are those policies related to minority rights that the candidate countries should endorse and apply?

These important questions suggest the need for qualifications with regards to political conditionality concerning minority rights. First, the lack of specific EU regulations and policies directly referring to minorities is indicative of the lack of consensus among EU members as to what minority rights are and how they should be protected. Minority rights protection has remained the domain of national policies rather than supranational ones. Consequently, EU requirements for minority respect and protection towards the candidate countries, are predictably less direct than economic and institutional prerequisites. As a result, EU demands for minority protection in Central and Eastern Europe did not include specific models for improvement, but developed over time and were influenced by developments external to the EU. Some of these developments were even external to the candidate countries which the EU was targeting for reforms. The unraveling of Yugoslavia, with protracted violent conflicts in Bosnia and Herzegovina, Croatia and Kosovo, had a significant impact on the visions of European elites for the development of the region. The strength of both majority and minority nationalism in Europe's own backyard caught the EU member states unprepared to cope with. But a slow process of political learning occurred over time. This leads to the second important qualification when applying political conditionality to explain minority policies in the candidate countries. The vagueness of the initial requirements for minority protection allowed the EU to formulate and re-formulate its recommendations. The initial hesitance and confusion as to what Europe can do to alleviate ethnic strife was gradually replaced by a more confident approach of steering the candidate countries' nationalistic majorities on the sidelines and towards measures that would induce cooperation. These measures varied from country to country, depending on the country's internal conditions.

The Central and Eastern European countries have a set of "confining conditions" which entail the different pace and outlook of Europeanization. In the region, Europeanization became closely linked and synonymous to democratization. The "return to Europe" was tantamount to the adoption of democratic norms espoused in Western Europe but in a very different context. Admitting that each state has its own peculiarities, Demetropoulou presents a set of "common confining conditions" for the new candidates, and argues that these "need to be addressed for the Europeanization of the Balkans to be facilitated (2002: 90). Together with the political, economic and social conditions, she lists "state-building" which includes unsettled borders, relations of political centre with minorities, and close interrelationship of minority problems.<sup>2</sup> There is little doubt now, with the hindsight of European intervention in the Balkan wars, that the EU was ill-equipped to cope with the security issues that arose as communism crumbled. As a result, European involvement in promoting stability and encouraging ethnic cooperation in countries was on an *ad hoc* basis, shaped by internal as well as external developments.

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<sup>2</sup> The author does not elaborate on the "close interrelationship of minority problems" factor and it is unclear whether she means it to apply for domestic politics or cross-border.



This variation was and continues to be an important and necessary ingredient for the EU strategy for minority protection since the EU balances between a formal recognition for *collective* minority rights and the need to minimize security threats on the borders of the Union or between its members. This balancing act has resulted in the Union's closer scrutiny or *screening* of majority-minority relations, and the adjustment of its advice and involvement in the domestic affairs of candidates. Quite surprisingly, the process of reception and projection that according to some occurs within the Union (Bulmer and Burch 2000: 47-48), is also taking place with regards to European views of minority rights, at least as proclaimed towards candidate countries. There is also evidence suggesting that the EU itself is changing with regards to minority rights. The specific reference to minority rights in the European Constitution signed by the Heads of State and Government of the EU members and the three candidate members at the time – Bulgaria, Romania and Turkey – is indicative of this change. Article I-2 states, “The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities.” There is no earlier reference to minority rights in official European documents except for the concluding document of the Copenhagen summit on 21-22 June 1993, and it is important to note that the document was aimed at influencing the conflict ridden Central and Eastern European countries.

In view of the existing vagueness within the EU regarding minority rights, there is one factor that was of utmost importance for positive developments in minority policies. The actions and demands of minority groups have played a significant role in helping EU institutions to frame and articulate recommendations or provide assistance for improving minorities' status within states. In many cases, the EU has played a reactive, rather than proactive role in encouraging majority-minority cooperation. For example, in March 2001, amidst fighting between Macedonian security forces and Albanian rebels in Macedonia, the Macedonian government was bombarded with pledges by EU officials for financial support and technical assistance in minority-related issues, like the funding of Albanian-language university, assistance for a new census (previous census results were contested by Albanians), and development of infrastructure projects in the Western, Albanian-populated regions of the country (Lungescu 2001).

The issue of Albanian-language University had been raised continuously by Albanians for the past decade but it was only after violence erupted that the European Union intervened decisively in favor of the demand. In Romania, reviewing the Education Law originally adopted in 1995, the European Commission stated that it is “a progressive law in line with EU standards,” but at the same time commended the amendments introduced to the law in 1997 which expanded minority rights (Commission Annual Report 1997). In contrast, in Bulgaria, demands for higher education in the mother tongue of the Turkish minority were never expressed by the ethnic political party, and the issue was never put on the political agenda. As a result European representatives and institutions never advanced a recommendation for the introduction of higher education in minority language but commended the availability of primary and secondary education in Turkish (Commission Opinion on Bulgaria's Application for Membership of the EU, DOC/97/11). These are only a few examples of the European influence and

responses to minority demands. The next section will focus with more detail on the mechanisms the EU used to encourage cooperation and alleviate tensions between majority and minority groups in Romania and Slovakia. Through the examples of ethnic accommodation or conflict in these countries I will demonstrate the remarkable nature of EU involvement in minority-related problems.

### **EU's Involvement in Majority-Minority Relations in Romania and Slovakia: Ambiguity, Caution, Pragmatism**

The EU influences minority policy in the candidate countries through two approaches. First, the EU encourages positive change with regards to minority rights by the very promise of European integration. By endorsing minority rights protection in 1993, however ambiguously, the EU has made it one of the *conditions* for the candidate members' integration. Exclusion from the EU was never a popular platform for politicians in the candidate members even before the EU committed to enlargement. In the period between the fall of communism and 1995, however, there was not a formal, unanimous decision at the EU level regarding the new Eastern "democracies." Therefore, in that period, it was mostly indirectly that the European dream influenced the decisions of Eastern European elites. That indirect approach allowed undemocratic, corrupt and nationalistic elite to capture the early years of the transition in some countries. In Slovakia, the nationalistic Prime Minister, Vladimir Meciar, endorsed European integration in official statements but did little to introduce or speed up reforms required for it. It was Meciar's government that submitted a membership application to the EU, but his "European" drive was marred by political corruption and endemic nationalism aimed against minorities. The EU could do little to change Meciar's policies. It should be noted that Slovakia became an independent state only in 1993, and its homogeneous character, with almost 10% of the population being Hungarian, provided populist leaders with ample ground for exploiting societal differences and the "Hungarian threat." In that regard Slovakia is in no way unique. Croatia, Macedonia, Bulgaria, Romania experience a similar transition period characterized by the exacerbation of ethnic tensions. And in all of them European integration was pushed on the sidelines of the political agenda, despite declarations to the contrary.

The second approach was adopted by the EU mostly after 1995 in response to the formal applications for membership being submitted by new candidates. Apart from the official reports published by the Commission periodically, the EU also used demarches to show its opinion on reforms in the candidate countries. In November 1994 and October 1995 the EU issued demarches to Slovakia (RFE/RL 1996), criticizing the excessively antagonistic relations between the ruling coalition and the opposition, the purges in the state administration and the insufficient respect shown for the principles of democracy and human rights (Slivkova 1999). In addition, to the Commission's opinions, the European Parliament also issued statements concerning developments in Slovakia, mostly about what the parliamentarians considered negative developments. It is interesting to note that in those official opinions and statements the European institutions held the candidate countries responsible to higher standards by encouraging them to adopt international documents like the Framework Convention for the Protection of National

Minorities. The Commission also consults the High Commissioner for National Minorities (HCNM) of the Organizations for Security and Cooperation in Europe (OSCE), and incorporates his recommendations in its opinions. Some scholars even claim that the EU has “in effect delegated to the HCNM the task of judging whether countries have ‘done enough’ in terms of minority rights” (Kymlicka 2001: 375).

The effect of the EU’s official positions should not be sought only in the legislation and policies the candidates adopted *after* those opinions. As the analysis below demonstrates, the political elites in Romania and Slovakia acted strategically, adopting very controversial legislative acts a short period of time *before* the Commission’s report. In many cases the timing of minority related legislation is one of the main manifestations of the EU’s influence. I will demonstrate this point by presenting consecutively minority-related legislation developed in Romania and Slovakia in the areas of education, language use and decentralization.

### **EU and Romania**

The period between 1990 and 1996 in Romania is characterized by the strength of Romanian nationalism and the adoption of laws that, according to the Hungarian minority, were restrictive of their rights. The first important legislation was the Law on Local Public Administration adopted in 1991. According to the Law, local council decision could be published in Romanian and in the language of minorities which were of “significant numerical importance,” but Romanian would be the official language of council meetings. The most contested part of the law was its provision that in settlements where a minority group was no less than 30% of the population, the language of that minority group could be used in official matters with the local administration. Formal requests, however, had to be accompanied by an official translation. According to Hungarians, the 30% requirement was too high. DAHR also contested the paragraph of the Law, which says that the prefects, among other things, will promote “the national interest,” believing that they should, in accordance with Article 122 of the Constitution, represent and defend the local interests (“Romania Update,” *East European Constitutional Review*, 1996).

The second important legislation, the law on education was adopted in June 1995 despite Hungarian protests. According to article 124 of the Law, university entrance examinations have to be taken in Romanian, except for subjects in which university instruction in the mother tongue is provided, such as teacher training and the arts. In addition, Article 123 stipulates that at the secondary level of education the language of instruction in the subjects of “history of Romania” and “geography of Romania” was to be Romanian.

Unlike the law on public administration, the education law produced a fast response from the Union. The reason for that is that in April 1995, Romania had signed the “Stability Pact for Europe” in which it committed to minority protection. The EU now had specific clauses to which it could refer in evaluating reforms in Romania and as a result in July 1995, the European Parliament passed a resolution condemning the law,

which “led to a further deterioration of the situation of minorities in Romania.” The resolution also stated that the law “arbitrarily restricts the educational rights of minorities” and urged the Romanian legislature to repeal it, otherwise it may be disqualified from joining the EU.<sup>3</sup> Bela Marko, the chairperson of the Democratic Alliance of Hungarians in Romania, welcomed the resolution (Shafir 1995). He claimed that the law was “in complete disregard of the national minorities’ interests” and asserted that “the law is not only discriminative as regard to the native language education of minorities, but even more restrictive – in this respect – than the law in force under Ceausescu” (qtd. in Horvath 2002: 93).

Under a new government, Romania renewed its attempts to alleviate ethnic tensions regarding minority education and language use. As regional specialists noted, “membership incentives contributed to positive changes in Romania after the change of government” (Kelley 2001: 21). This goal was strengthened as July 15, 1997 approached. On this date, the European Commission was to issue its “Opinion” on the eligibility of each associated country for the start of accession negotiations. Romania was determined to be a part of this group, if only for fear of being left out of a first enlargement when there might not be a second one. December 12-13, 1997 was a similarly important deadline, when the EU Heads of State would support or reject the Commission’s Opinions.

Government emergency decree 36/1997 adopted on July 10, 1997 did remove the anti-minority provisions of the education law but its approval by the legislature was protracted for two years. Another emergency decree, 22/1997, modified the public administration law, stipulating in Articles 23-25 and 58 that authorities are obliged to make their decisions public in the language of a given minority if that minority represents at least 20% of the population in the municipality. In case of such population composition, the Hungarians also had the right to address the authorities in their language. In municipalities where the minority councilors are at least one third, council meetings could be conducted in the language of the minority. However, the implementation of the government decree was hindered since for a long time Parliament did not elevate it to the status of a law. The Constitutional Court held that the ordinance’s subject matter should have been regulated by means of ordinary legislation, otherwise it could not be implemented. A few days later the European Commission’s Opinion of July 16 recognized that Romania had “worked hard to regularize relations with its neighbors, concluding agreements with Hungary and Ukraine on recognition of borders and minority rights.” The Commission noted that Romania had signed the Framework Convention for the Protection of National Minorities and had established a national council for minority issues. The Commission also emphasized the ordinances mentioned above as improvements of minority rights.<sup>4</sup> However, the Commission did not recommend the

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<sup>3</sup> European Parliament, Resolution on the protection of minority rights and human rights in Romania – B4-1025/95, July 13, 1995. Full text available at <http://www3.europarl.eu.int/omk/omnsapir.so/calendar?APP=PV2&LANGUE=EN>

<sup>4</sup> European Commission, “Agenda 2000: Commission Opinion on Romania’s Application for Membership of the European Union,” Brussels, 15 July 1997, DOC/97/18, p. 7.

start of negotiations with Romania. With the prospect of participating in the first enlargement wave vanished, on December 9, 1997, the Senate rejected an appeal from the president and adopted amendments to the education law, which are much more restrictive for minorities than the emergency decree (Romania Update 1997). Yet, the Commission, despite its earlier approval of the emergency ordinances, did not take into account the Hungarian objections to the laws that were subsequently adopted and focused instead on the conditions of the Roma minority (Regular Report of the Commission on Romania, 1998).

Finally, in 2001 a new law on public administration was adopted (Law 215/2002) with the provision for the use of minority languages in administrative units where a minority represents at least 20% of the population. DAHR's President described the law as being the most important triumph for ethnic minorities in Romania in the past 10 years along with the educational law amended in 1999 (Hungarian Human Rights Monitor, January 2001). The European Commissioner for Enlargement praised Romania for improving its treatment of ethnic minorities" (Tomciuc 2001: 2). In addition, DAHR also succeeded in achieving another of its major goals. In October 2001 was the formal opening of a Hungarian-language university that DAHR had pushed for since its establishment. The university was private and therefore not state-funded but its legalization was a considerable success.

## **EU and Slovakia**

In Slovakia developments regarding minority-related legislation followed a similar path. The new legislature created after the November 1994 elections adopted a new law on the State Language which centralized control over education by allowing the Education minister to dismiss principals who were deemed incapable. The new Education minister announced that "incapability" involved lack of fluency in Slovak and advocated that language, literature, history, geography etc. "be taught only by ethnic Slovak teachers" (Ishiyama and Breuning 1998; See also Dostal 1998). In addition, the law stipulated that "proof of proficiency in speaking and writing the state language is a condition of employment or engagement in other work-like situations, and is a prerequisite to completing contractual work for public bodies" (Article 1, Paragraph 3). Following the implementation of the law, one Hungarian leader claimed that the law was used to remove ethnic Hungarians from official positions. The law was bashed both by the Hungarian minority and the European Parliament because it was not explicit on the use of minority languages.<sup>5</sup>

The actions of the Parliament and the Commission were somewhat contradictory in the following years. In its 1997 report the Commission asserted that minority rights have been recognized in Slovakia but it also pointed to the "instability of institutions and their lack of rootedness in political life." In 1998 the European Parliament requested "the Slovak Republic to give absolute priority to... human rights and the rights of minorities, democracy and the rule of law."<sup>6</sup> Recommendations towards Slovakia poured from all

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<sup>5</sup> European Parliament resolution on the political situation in Slovakia, 9(e) B4-0849/97

<sup>6</sup> European Parliament resolution on the Slovak Republic, *O.J. C* 328, 26/10/1998, p. 190.

EU institutions. First the Commission and then the Council agreed that minority-language use specifically, and the developments of policies and institutions protection the rights of minorities were a priority.<sup>7</sup> The treatment of the Hungarian minority was removed as an area for improvement from the Commission's 1999 report.

In 1999 the Slovak legislature approved a Language Law establishing a 20% threshold for the use of minority languages in an administrative region.<sup>8</sup> Hungarians were not fully satisfied but the amendments they proposed were rejected. Some observers noted that "the bill had to be rushed through Parliament in a shortened parliamentary session because of an impending meeting of European Commission officials, at which they will decide on the countries to be included in first-round EU entry talks at the Helsinki summit scheduled for December" (Kopanic 1999). After 1999 the Commission referred to need for improvement of minority rights only in reference to the Roma minority. However, Slovakia continued introducing reforms that were in the interest of the Hungarian minorities. In June 2001 Slovakia ratified the European Charter on Regional and Minority Languages and the Commission commended it in its 2001 Report. In addition, administrative reform establishing self-government and decentralization of power was introduced in 2001.

### **Decentralization in Romania and Slovakia**

Decentralization is seen by the Hungarian minorities as a way for them to expand their rights. Since Hungarians are concentrated in specific regions they would benefit from the devolution of power to local governments which they consider as close as they could get to territorial autonomy. Fortunately for them, decentralization and devolution of power are goals endorsed by the EU. For that reason through its reports the Commission actively promoted decentralization but without a specific reference to it as a goal that would improve inter-ethnic relations.

Decentralization in Romania has started progressing at a fast pace since 1998 when two important laws regulating local financing were adopted (189 and 213), following the Law on Regional Development, which divided the country in eight development regions. Law 189/1998 aimed to decrease the dependency of local budgets on state budgets, and to establish stable resources for local administrative units. Earmarked subsidies and transfers have been replaced by revenue sharing of a national tax with the revenues allotted directly to local budgets. Instead of all the revenues being transferred to the central budget with the government being responsible for allocating funds to each local administration, local governments started receiving a percentage of the income tax at the moment they were collected. The Law on Public Finance had a positive effect on decentralization by giving more financial responsibility to local administrations. Between 1991 and 1998, more than 70% of local revenues came from

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<sup>7</sup> Council Decision 98/262/EC of March 1998 on the principles, priorities, intermediate objectives and conditions contained in the accession partnership with the Slovak Republic, *O.J. L121*, 23/04/1998, pp. 16-20.

<sup>8</sup> Law on the Use of Minority Languages, July 11, 1999  
[http://www.minelres.lv/NationalLegislation/Slovakia/Slovakia\\_MinorLang\\_English.htm](http://www.minelres.lv/NationalLegislation/Slovakia/Slovakia_MinorLang_English.htm)

the state budget, while for 1998 and 1999, the same dropped to less than 30% (Romanik and Conway, 2002). Yet, in 2004 the DAHR leader urged for further decentralization which would help the Hungarian minority in Romania achieve the administrative autonomy it seeks (Divers, August 30, 2004).

In Slovakia public administration reform was also continuously debated, especially after 1998 when the Hungarian coalition participated in the government. However, even in 1996, Hungarians in Slovakia were expressing demands for “self administration.” Gyla Bardos, a member of the legislature from the Hungarian Christian Democratic Movement, explained that “autonomy, or self administration, is a legal framework enabling a citizen, or several citizens to decide about their own matters. It has nothing to do with national minorities” (in *The Slovak Spectator*, July 31, 1996). Bardos put the idea in terms that liberal democratic politicians would find hard to disagree with. Yet, the regional structure of the country created in 1996 was designed so that none of the eight regions that were created had any considerable share of Hungarians. In 2000, the Hungarian leader Bela Bugar announced his plan for redrawing the country so that Komarno County, where the majority of Hungarians live, would be a separate development region and therefore a direct recipient of EU funds (*The Slovak Spectator*, September 18, 2000). The cabinet approved the proposal but the law that came out of the legislature was against the wishes of the Hungarians. The law on regional administration approved by the legislature on July 4, 2001, divided the country once again in eight regions, in none of which Hungarians had a majority. In its Annual report the Commission did not take a stance on Hungarian demands and commended the new law urging that “the reform is implemented without delay, ensuring the functioning of a democratic, efficient and sustainable self-administration” (Commission Report on Romania 2001: 16).

In its reports on progress in Romania and Slovakia the Commission has understandably taken a minority-neutral stand regarding regional development. The principles of regionality and subsidiarity according to which decisions should be made at the level closest to the citizens of the Union do not contain any direct reference to minority rights. In 1994 the Committee of the Regions was established in the EU as “the political assembly which provides local and regional authorities with a voice at the heart of the European Union.”<sup>9</sup> According to Article 3b of the Treaty establishing the European Community, “In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.” The local administration reforms in Romania and Slovakia are driven by the need to harmonize their policies with the principles of regionality and subsidiarity on one hand, and on the other, reform is required by the EU in order those regions to qualify for financial and technical assistance from the Union’s structural and cohesion funds. According to the last report of the Commission on Slovakia in 2003, the divisions of responsibility between the central and local authorities was still

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<sup>9</sup> “The Committee of the Regions: An Introduction.”  
<http://www.cor.eu.int/en/presentation/Role.htm>

underspecified and there was lack of coordination between the central level and the regions. The 2004 report on Romania was critical of the local authorities' administrative capacity. Nothing was mentioned on Hungarian demands for further decentralization.

## **EU and the New Minorities**

The issue of minority rights protection continues to be an important one for future developments in the Union considering its continued enlargement to include ethnically homogeneous states. The protection and participation of minorities is implicitly incorporated through the notion of subsidiarity in the Maastricht Treaty, the European Council of Copenhagen and the Stability Pact for Europe. However, the Union still shies away from endorsing minority rights as "collective rights." The "Balladur" plan, named after French Prime Minister Edouard Balladur, proposed in April 1993, explicitly referred to the possibility of 'minor border modifications' and 'collective minority rights' (Dunay 1995). However, the Copenhagen criteria endorsed by the EU a few months later only called for "*respect for and protection of minorities.*" This specific reference to *minority rights*, in conjunction with broader human rights is an important recognition.

The Charter of Fundamental Rights was another opportunity to incorporate minority protection explicitly into EU legislation. However, in the Charter adopted at Nice in December 2000, relevant provisions were limited to a prohibition of discrimination (Article 21) and to the following brief provision: "The Union shall respect cultural, religious and linguistic diversity" (Art.22). Once again, there was no explicit mention of "minorities". There was no subsequent reference to minority rights neither in the Amsterdam Treaty, nor in the Nice Treaty, but the more recent signing of the Constitution for Europe, indicates that protection of minority rights is still part of the EU's future strategy. As Kymlicka argues, "Western countries have moved along two different and somewhat contradictory tracks. On the one hand, they have maintained but weakened the commitment to a universal, justice-based, minority rights track; on the other hand, they have created a new contextual, security-based minority rights track" (2001: 372).

As the EU continues to expand, the presence of a group of countries with national minorities which continue to demand greater autonomy is likely to change the approach of the Union towards minority rights. And with the institutional and decision-making changes taking place, countries like France and Belgium who were unwilling to commit to the extensive minority protection of the Council of Europe's Framework Convention for the Protection of National Minorities, may have to acquiesce to the decisions taken by a majority. Launching this paper with a statement of the EU's Enlargement Commissioner specifically referring to minority rights, it seems fitting to finish it with a statement by the OSCE's High Commissioner on National Minorities. After all, looking at the ambiguous stance of the European Union, often times with only lip-service being paid to the idea of protecting national minorities, the OSCE's Commissioner seems to be the one most fervently pursuing what the Union preached. In a 2002 speech in Copenhagen, Rolf Ekeus stated unequivocally:



*...standards on which the Copenhagen criteria are based should be universally applicable within and throughout the EU, in which case they should be equally – and consistently – applied to all Member States. Otherwise, the relationships between the existing and aspiring EU Member States would be unbalanced in terms of applicable standards (2002: 4).*

Can the EU move towards a more integrated and consistent minority policy? With countries like Slovakia, Romania, Bulgaria, Turkey and a number of other states with significant national minorities expected to join eventually, it will be hard not to.

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