

MÁRIA M. KOVÁCS

The Politics of Non-resident Dual Citizenship in Hungary

In Hungary dual citizenship has recently emerged as a controversial issue and, for a few months in 2004, it even captured the center stage in politics. On December 5, 2004, six months after Hungary's accession to the European Union, voters were asked in a referendum to decide whether Hungary should offer extraterritorial, non-resident citizenship to ethnic Hungarians living outside Hungary by lifting all residency requirements from among the pre-conditions of obtaining a second, Hungarian citizenship. The novel aspect of the proposal was not the introduction of dual citizenship itself, since the option of obtaining a Hungarian second citizenship had long been available for permanent residents within the country.¹ The innovation would have been to remove all residency requirements from among the pre-conditions of obtaining a Hungarian second citizenship. The question posed at the referendum was as follows: The question posed at the referendum was as follows:

“Do you wish that Parliament pass a law which would enable an applicant who declares himself/herself to be of Hungarian nationality, but is not a Hungarian citizen and does not live in Hungary, to enjoy the right of preferential naturalisation at his/her request, provided he/she can provide proof of his/her Hungarian nationality with the possession of a “Hungarian identity card”

¹ According to the Hungarian law on citizenship (Law LV.4§ of 1993) the residency requirement for the „preferential naturalization” of ethnic Hungarians is a minimum of one year of legal residence in Hungary, after which the process of naturalization takes, on average, another year. For other applicants the residency requirement is 8 years of continuous residence, except if they were born in Hungary or if they are stateless, in which cases the residency requirement is reduced to 5 years. For non-citizen spouses of Hungarian citizens the residency requirement is 3 years and the same applies to parents of children who are Hungarian citizens, children adopted by Hungarian citizens and refugees.

issued on grounds of Law LXII.19, 2001, or in any other way to be determined by the law.”²

Thus, ethnic Hungarians living outside Hungary’s borders were to be granted the possibility of obtaining Hungarian citizenship merely upon declaring themselves to be of Hungarian linguistic affiliation at a Hungarian consular office, or upon possessing an identity card confirming their Hungarian nationality.³ Although the referendum question left the criteria of eligibility open for future lawmaking, an approximation of potentially eligible claimants can be made on the basis of the size of trans-border Hungarian ethnic minorities whose numbers are estimated at around 3 million. If ethnic Hungarians from all over the world were included, the number of potentially eligible claimants was estimated to rise to 5 million.⁴ In case of a success-

² http://www.valasztas.hu/main_hu.html (05,05,2005) For the text of the law establishing the Hungarian ID see: http://www.hu-embassy.si/Index_files/hu_files/For_files/for.html (05,05,2005). From among the countries on Hungary’s borders this law applied only to Hungarians living in Serbia-Montenegro, Croatia, Slovenia, Romania, Ukraine and Slovakia, but did not apply to Austria. However, unlike the law that established the Hungarian identity card for members of external minorities, the referendum question did not restrict the possibility of non-resident citizenship to Hungarians in neighboring states, thereby extending potential eligibility to Hungarians all over the world.

³ Throughout the campaign related to the referendum, the future content of citizenship remained unclear.

⁴ According to the numbers published in 2004 by the Government Office for Hungarian Minorities Abroad (Határon Túli Magyarok Hivatala), the number of Hungarians living in Romania, Ukraine, Serbia and Montenegro, Slovakia, Croatia and Slovenia as provided by the official censuses in these countries between 2000 and 2002 amounted to 2 429 000 Romania: 1 435 000; Ukraine: 156 000; Serbia and Montenegro: 293 000; Slovakia: 516 000; Croatia: 16 000; Slovenia: 8 500. <http://www.htmh.hu/korszak.pdf> (05, 05, 2005). The estimate for the number of trans-border Hungarians potentially eligible for Hungarian citizenship based on ethnic identification is higher than these numbers, which is explained by the assumption that more people would actually be able to fulfill the criteria of Hungarian affiliation than those who actually declare themselves Hungarian in government censuses. The number of potential claimants on such grounds globally was estimated at around 5 million by the Political State Secretary for Foreign Affairs, András Bársony. “Határok nélkül”, *Kossuth Rádió*, January 16, 2003. <http://www.hhrf.org/hatnelk/4030216kallampg.htm> (05,05,2005). In the position paper of the Hungarian government submitted to the Venice Commission of the Council of Europe in 2001, the following estimates were given for the number of Hungarians in the censuses of neighboring states and the estimated number of ethnic Hungarians in those states around 1990. Hungarians in Slovakia: 567 296 (653 000); Hungarians in the Ukraine: 163 111 (200 000); Hungarians in Romania: 1 627 021 (2 000 000); Hungarians in Serbia: 343 942 (365 000); Hungarians in Croatia: 22 355 (40 000); Hungarians in Slovenia: 8 499 (12 000); Hungarians in Burgenland (Austria): 6 763 (7 000). Source: Census data: Ukraine – 1989, Slovakia, Serbia, Croatia, Slovenia, Austria – 1991, Romania – 1992. (according to the ethnicity; in Austria: everyday language). In parentheses are the estimates – according to the

ful referendum the number of those eligible for Hungarian citizenship would be augmented by between a third and a half of Hungary's current citizenry of 10 million, depending on whether the estimate only takes trans-border Hungarians into account, or whether Hungarians all over the world are included.⁵ Assuming, for the argument's sake, that the majority of those made eligible by the reform would actually claim citizenship, the proportions of the resulting change would exceed the growth of Germany's citizenry after unification, but of course, without the corresponding territorial enlargement. Or to give another analogy, the resulting change would be proportionate to the entire population of Mexico being made eligible for United States citizenship. This in itself points to the first specificity of the Hungarian story, namely that the dimension of Hungary's kin-minority problem is unusually large: nearly a quarter of all Hungarians live outside Hungary's borders in neighboring states. Other European nations with comparably large kin populations living outside the political borders of the nation-state are Ireland, Italy, Finland, Austria, Belgium and Portugal, but from among these, it is only in the case of the Irish that a large Irish kin population is found in close geographical proximity to the state of Ireland in Great Britain.⁶

language knowledge and ethnic origin – of the organisations of the minorities and the calculations of Károly Kocsis: *Hungarians in Transylvania include the Székely- and Csángó-Hungarians*. 1988.

- ⁵ According to the Hungarian Ministry of Interior, on January 1, 2004, Hungary's population was 10 207 006 and the number of Hungarian Identity Cards issued to transborder Hungarians was 774 288 at the 1st of January, 2004. <http://www.okmanyirodak.hu/fixhtml/nepessegfuzet/2004/2004ertekeles.doc>
- ⁶ Ireland (3,6 million resident population and 3 million non-resident citizens amounting to 83% of resident citizens and another 37 million ethnic Irish), Italy (57,3 million resident citizens and cca. 5 million non-resident citizens amounting to 9% of resident citizens and another 25 million ethnic Italians), Finland (5,1 million resident citizens, and 1 million non-resident citizens and expatriate non-citizens), Austria (7,4 million resident citizens and cca. 1 million non-resident Austrian citizens and expatriate non-citizens), Belgium (8,4 million resident citizens and cca. 1 million Belgians abroad), and Portugal (10 million resident citizens and cca. 4 million Portugese abroad). Willem Maas: *Extending Politics: Enfranchising Non-Resident European Citizens*. International Studies Association, 40th Annual Convention, Washington D.C., February 16–20, 1999, <http://www.ciaonet.org/conf/maw01/> (31,05, 2005). As far as Ireland is concerned, see: <http://www.foreignaffairs.gov.ie/information/publications/whitepaper/chp12.asp>. The Irish Department of Foreign Affairs estimates that there may be almost three million Irish citizens living outside Ireland. Of that total, around two million are in Britain and half a million in the US. About 1,2 million of the total number of citizens abroad were born in Ireland.

The proposed reform failed to win popular mandate in the referendum of 2004.⁷ Nevertheless, the movement towards citizenship reform has, by no means, been exhausted. Powerful endorsers of the reform within the Hungarian political establishment, among them the chairman of the main right-wing party (FIDESZ), Viktor Orbán, have pledged to pursue the reform and to create non-resident dual citizenship in case of the electoral victory of the right in the 2006 elections. The president of the republic, László Sólyom also expressed sympathy for the initiative.⁸ Meanwhile, the Federation of World Hungarians, the organization that had initiated the 2004 referendum, announced plans for a new referendum to be held in 2006.⁹

Debates over the Hungarian citizenship reform raised a number of contentious issues present in citizenship debates worldwide, but also brought forth problems that are specific to the East-Central European region. The Hungarian initiative was directed at external co-ethnic minorities living in neighboring states and at the Hungarian diaspora living elsewhere in world. As such, the reform belongs to that type of citizenship reform that was identified by Christian Joppke as the “re-ethnicization” of citizenship, a process in which states provide preferential access to citizenship to people, including non-residents, who are considered ethnic or linguistic relatives.¹⁰ Within Europe, such policies are pursued by a number of countries including Portugal, Spain, Italy and Greece. More recently, several countries in the East Central European region, among them, Croatia and Romania have introduced similar legislation. However, while such reforms in Western and East-Central Europe may look similar in terms of the legal techniques involved, they are intended to address different concerns and thus carry different political and social implications.

In Western Europe, citizenship reforms aimed at the preferential treatment of ethnic relatives abroad has mostly emerged in the context of migration and had been adopted without drawing much international attention. As Joppke put it, such reforms constituted a “little-noticed side plot” alongside more important reforms aiming at the de-ethnicization of citizenship, reforms that

⁷ In Hungary a referendum is valid if at least 25% of the electorate returns identical votes, or if participation reaches above 50% of the total number of eligible voters. In this case neither criteria was fulfilled.

⁸ *MTI* (Magyar Távirati Iroda) [Hungarian Press Agency], August 4, 2005. (28,08,2005)

⁹ Patrubány újra szavaztatna. [Patrubány suggests to repeat the referendum] *Népszabadság*, February 14, 2005.

¹⁰ Christian Joppke: Citizenship between De- and Re-Ethnicization. <http://www.russell-sage.org/publications/workingpapers/Citizenship%20between>, (18,07,2005), 13. cf. also, Western European Countries Tend to Follow a Liberalizing Trend towards Citizenship Policies. Interview with Rainer Bauböck, http://www.migrationonline.cz/news_fshtml?x=230291

ease up access to citizenship, by receiving sates, for ethno-culturally foreign immigrants. Even in a country like Spain where citizenship reforms have produced an elaborate regime for the preferential treatment of ethnic relatives from abroad, these reforms have happened together with measures easing up access to citizenship for ethnically foreign labor migrants.¹¹

As compared to Western immigration countries, the context in which the issue of preferential treatment of ethnic relatives has been raised in East-Central Europe is fundamentally different. In this region the defining events of the first decades following the collapse of communist regimes had precious little to do with labor migration and even more to do with the dissolution of multinational federations and the formation of 12 new states.¹² Therefore, unlike in Western Europe, in East-Central Europe, questions of membership, of who does and does not belong to the nation touch upon sensitive issues of state sovereignty and evoke problems of historically disputed borders and trans-border ethnic kin minorities. For example, when, in 1991 Romania created non-resident second citizenship for ethnic Romanians in neighboring Moldova, the reform had been based on the expectation that Moldova, a successor state of the Soviet Union, would, in time, cease to exist as a sovereign entity and the country, that had used to be a part of Romania before its incorporation to the Soviet Union, would again be unified with Romania.¹³ At the same time, the ethnic Russian popula-

¹¹ The newest reform of Spanish citizenship law passed in 2002 waived the residence requirement for children of emigrants and reduced the residence period before citizenship to one year for grandchildren of immigrants. These reforms put on the “fast track to citizenship” about one million descendants of Spanish emigrants. Christian Joppke: *Citizenship between De- and Re- Ethnicization*, op. cit. 17–18. For measures easing up access to Spanish citizenship for labor migrants, see: Spain stands by immigrant amnesty. *BBC News, World Edition*, 25 May, 2005, <http://news.bbc.co.uk/2/hi/europe/4579127.stm> (20,07,2005), reporting on an amnesty for 700,000 illegal labor migrants. For the concept of “de-ethnicization”, see Christian Joppke: *Selecting by Origin, Ethnic Migration in the Liberal State*. Cambridge, Massachusetts and London: Harvard University Press, 2005.

¹² Rogers Brubaker: *Accidental Diasporas and External Homelands. Political Science Series*, Nr. 71, Institute for Advanced Studies, Vienna, October, 2000. 1.

¹³ Article 37 of the Law on Romanian Citizenship of 1991 established a non-resident, extra-territorial Romanian second citizenship for those who had been Romanian citizens in the past and had been involuntarily stripped of their citizenship, as well as for their descendants. Iordachi, Constantin: *Dual Citizenship and Policies toward Kin minorities in East-Central Europe: A Comparison between Hungary, Romania and the Republic of Moldova*. In Zoltán Kántor, Balázs Majtényi, Osamu Ieda, Balázs Vizi, Iván Halász (eds.): *The Hungarian Status Law: Nation Building and/or Minority Protection*. Sapporo: Slavic Research Center, Hokkaido University, 2004. 246–47. Ethnic Romanians constitute two-thirds of the population of Moldova which amounts to 4,3 million people. Of these, 300 000 were granted Romanian citizenship between 1991 and 2000. The largest number of requests from Moldova for Romanian citizenship were recorded after the 1998 announcement of Romania’s future accession to the EU.

tion of Moldova living in the separatist Transdnistrian-Moldovan region was allowed by Russia to retain Soviet passports. Eventually, in 2000 the authorities of the split Moldovan republic, 40 % of whose population holds a dual citizenship status of some sort, retaliated in despair to what they saw as an infringement on the sovereignty of Moldova. They passed a citizenship reform that mandated the denaturalization of holders of dual citizenship unless they acquired that status through mixed marriages.¹⁴ Although no application of the law had been reported until its eventual revocation in 2003, the story of its adoption is a telling indication of the inter-state tensions created by the use of dual citizenship towards explicitly nationalist-revisionist purposes by external states, in this case, Romania.¹⁵ In the light of the use of dual citizenship by Romania to further a revisionist agenda, it is hardly surprising that Romania would be extremely sensitive about the Hungarian offer of external citizenship to Hungarians in Romania, suspecting Hungary, rightly or wrongly, of intentions similar to those informing Romanian policies towards Moldova.

Political Debates

Political debates on the referendum initiative were tremendously polarized. In 2003, the initiative to call a referendum had not come from Hungarian parliamentary parties, but from an organization not well integrated into domestic Hungarian politics, the World Federation of Hungarians comprising members from among trans-border Hungarians as well as from among the Hungarian diaspora elsewhere. Before 2003, the federation had contested the policies of the Hungarian government on citizenship matters claiming that the government was not doing enough for minority Hungarians. The federation also set itself on a collision course with the more moderate Hungarian minority parties across the borders, leading to its rapid marginalization. In the year 2000, the presidency of the federation was assumed by the Transylvanian politician, Miklós Patrubány who made a series of moves gravely overstepping the limits of what was generally seen as acceptable by all shades of the Hungarian political establishment, creating an image of himself as a political gambler. Immediately on assuming office, Patrubány called for a revision of Hungary's so-called Trianon borders established after the First World War.

¹⁴ Iordachi, *op. cit.*, 255.

¹⁵ By 2003 an astonishing forty percent of the population of Moldova were dual citizens, mostly of Romania, and in smaller numbers, of Russia and Israel. Iordachi, *op. cit.*, 257.

Tensions between the federation and the Hungarian government mounted in the following year when the Orbán government (1998–2002) introduced the so-called Status Law. The law established a form of state membership, or “Hungarian status” for trans-border Hungarians. The law created a National Identity Card for ethnic Hungarians living in neighboring states that entitled its beneficiaries to a set of cultural and economic benefits, including seasonal working permits in Hungary. However, the Hungarian ID does not confer political entitlements, such as the right to vote.¹⁶ Since January 2002, approximately a quarter of all trans-border Hungarians applied for the Hungarian ID.

Mainstream Hungarian minority parties across the borders strongly supported the creation of the Status Law. The position of trans-border minority parties was formulated by Miklós Duray, a leader of minority Hungarians in Slovakia as follows: the Orbán government’s proposal of the Status Law is the best option available to minority Hungarians. Minority Hungarians should accept this solution and not support the claim of full Hungarian citizenship for trans-border Hungarians because such a claim would raise insurmountable problems in the sensitive areas of citizenship law, taxation and voting rights, and would slow down Hungary’s accession to the EU. Thus, according to Duray, while dual citizenship was not a realistic claim, the Status Law managed to avoid these obstacles.¹⁷ Duray’s stance was shared by most preeminent minority leaders in Transylvania, including Béla Markó. But already at this time, a few minority leaders rejected the notion that the Status Law would be an alternative solution to dual citizenship, and, although they also voiced their support for the law, they explicitly based this support on the expectation that the law would, in the course of time, prepare the ground for full citizenship rights for trans-border Hungarians.¹⁸

However, the World Federation of Hungarians with the leadership of Miklós Patrubby straightforwardly opposed the adoption of the law on grounds that it did not provide full Hungarian citizenship. According to the federation, the benefits provided by the law were no substitute for what mi-

¹⁶ Act LXII of 2001 on Hungarians Living in Neighbouring States

¹⁷ Györgyi, Annamária: A mumusok és a kék madár, Mi történt? Miről beszél(t)ünk? [Monsters and the blue bird, What Happened, What Did We Talk About?] *Regio*, Nr. 4, 2004. 57.

¹⁸ “Határok nélkül”, *Kossuth Rádió*, January 16, 2003. http://www.hhrf.org/hatmelk/4_030216kallampg.htm (05,05,2005)

nority Hungarians really needed which was full Hungarian citizenship.¹⁹ Responding to objections that an extension of Hungarian citizenship to non-resident minorities would be incompatible with the terms of Hungary's accession to the European Union, in the spring of 2003, the federation called on Hungarian voters to say no to Hungary's accession to the Union.²⁰ At the time, Patrubány's controversial radicalism alienated not only the political public within Hungary proper, but also mainstream Hungarian minority politicians in neighboring states.

The Status Law provoked an angry response in neighboring states. Hungary was accused of irredentist nationalism, of creating a „veiled form of dual citizenship” the ultimate effect of which was to call the sovereignty of the neighboring states into question. Hungary was also criticized by the European Union for the unilateral adoption of the legislation without appropriate consultations with the states in question and for the fact that the law provided for a set of extraterritorial rights for ethnic Hungarians.

However, despite the negative response by the neighboring states and the EU, the World Federation of Hungarians insisted that Hungary must proceed on to the unilateral creation of non-resident trans-border citizenship for ethnic Hungarians in those states. What gave the issue special urgency, they claimed, was the fact that while Hungary's accession to the European Union, anticipated for 2004, would make hundreds of millions of non-Hungarian EU citizens legally „less alien” within Hungary, trans-border Hungarians would continue to qualify as „legal aliens” falling under restrictions in their labor opportunities, and to some extent, in their movement across borders.²¹ The only way to remedy this situation, the Federation contended, was by extending full Hungarian citizenship to ethnic Hungarians which would allow the Hungarian government “to take trans-border Hungarians into the European Union”, even if the state in which they live remains outside the Union.²²

¹⁹ As a result of the federation's open conflict with Prime Minister Viktor Orbán on the issue of the Status Law, in the fall of 2000, the Orbán government withdrew public funding from the federation.

²⁰ www.hhrf.org/rmdsz/sajtofigyelo/archivum/2000/f3500531.htm (05,05,2005) On Duray's opposition to Patrubány on account of the Status Law, see *Magyar Nemzet*, November 18, 2000. On the federation's negative position on the referendum on EU accession, see: <http://index.hu/politika/belhirek/?main:2003.03.22&123591> (05,05,2005) and <http://fkgp.hu/modules.php?name=News&file=print&sid=42>.

²¹ Miklós Duray: Állampolgárság és nemzetpolgárság (a kettős vagy a többes állampolgárságról). <http://www.aprilisiifjak.hu/index.php?csz=31778>, May 1, 2004.

²² Csergő, Zsuzsa – Goldgeier, James: Nationalist Strategies and European Integration. In Zoltán Kántor et al. (eds.): *The Hungarian Status Law*, op. cit.

Therefore, in October 2003, the Federation began collecting signatures for a referendum on establishing non-resident citizenship for trans-border Hungarians.²³ This then, points to the second specificity of the Hungarian story, namely that the initiative to create trans-border dual citizenship did not come from within the Hungarian political establishment, but from the outside, or as some analysts put it “from below” from a radical organization that is not too well integrated into Hungarian politics.²⁴ Only this feature can explain the puzzle of why any organization would take the risk of launching a referendum initiative that has only limited support within Hungary itself and therefore carries the prospect of its own defeat.

Initially, mainstream Hungarian parties on all sides reacted very cautiously to the initiative, along with the more moderate leaders of trans-border minorities. Interestingly, even those parties of the right that, a few months later came out in support of the referendum, remained passive in the beginning. Besides the general anticipation of failure, the other reason for the initial passivity of rightist parties may be explained by the explicit commitment the right-wing government had made to the European Council only two years earlier, in 2001 on the occasion of the EC’s investigation of the Status Law, that the government had no intention of extrapolating citizenship rights from the Status Law which, as they said, was in fact based on the “rejection of dual citizenship” for kin minorities. As the position paper of the

²³ Even after the main right-wing party, FIDESZ declared its full support of the referendum, the future content of citizenship remained unclear. The president of the party, Viktor Orbán spoke of nothing else, but a passport (*HVG*, 2004. november 12), while a few days later, his deputy, László Kövér declared in Parliament that “a passport without citizenship” is a “kind of animal that does not exist in international law.” November 17, 2004. <http://www.mkogy.hu/naplo37/187/187.htm> nov. 17 Later, in February of 2005, Kövér distanced himself even more from the dual citizenship reform, stating that it is more important for Hungary to support autonomy for minorities than to spend energy on dual citizenship reform. <http://politika.transindex.ro/?cikk=3029> February 7, 2005 (05.05.2005). In July of 2005 Kövér delivered a frontal attack on the whole initiative: “The initiative was irresponsible, it was doomed to fail from the beginning and yielded no benefits. The granting of Hungarian citizenship would result in unimaginable consequences. If Hungarians outside Hungary would be granted Hungarian citizenship, this would result in the migration of the young from their native lands, and moreover, none knows what regulations connected to citizenship would need to be changed within Hungary itself.” *Hírszerző*, 08,01, 2005.

²⁴ “As we all know, the initiative came from “below. It came from that Miklós Patrubány, who is considered in serious right-wing circles as a gambler or as a provocator. After failing to stop his election to the presidency of the World Federation of Hungarians, Prime Minister Viktor Orbán withdrew all state support from the federation. However, Patrubány would never have been able to take the cause to the center of politics and bring about the conditions for a valid referendum. The issue was pushed into the center by Viktor Orbán when he endorsed it. When he signed a petition for the referendum and started to enthuse his followers.” Debreczeni, József: *Hazárdjáték. [Gambling] Népszabadság*, November 27, 2004.

Orbán government submitted to the Venice Commission in 2001 stated: “In fact, the Act recognizes that Hungarians abroad are citizens of the relevant states and clearly rejects the idea that the self-identification as Hungarians can be based on dual citizenship. The Hungarian assistance to Hungarians abroad has always been and will continue to be carried out according to the practice of other European states, taking European norms into consideration in good faith and giving due attention to the spirit of co-operation between neighboring states. In the expression of its kin-state role, Hungary has always acknowledged that it has no citizen-like relationship whatsoever with Hungarians living in the neighboring countries when dealing with them.”²⁵

After a few months however, the mainstream right wing parties (FIDESZ and MDF) along with the President of the Republic eventually declared their support for the referendum, while the socialists and liberals openly turned against it.²⁶ What followed was an agitated, occasionally hysterical, campaign leading up to the referendum that fulfilled the prophecy of its own failure by turning out as invalid because of the low number of participants.²⁷ This then, points to a third feature of the Hungarian story, namely that an 81 percent majority of the Hungarian electorate either stayed away from the voting, or voted against the creation of non-resident dual citizenship for trans-border Hungarians. Among those who cast their ballots, amounting to 37.67 of the electorate, 51.57% voted in favor of the reform, 48.43% against.²⁸ But while it is true that participation in the referendum was rather low, it is also true that the referendum held only a few months earlier on Hungary’s accession to the European Union also failed to mobilize more than 45% of the electorate.

No detailed research is available on the question of what precisely motivated Hungarian voters in their choices. Welfare protectionism certainly

²⁵ Paper Containing the Position of the Hungarian Government in Relation to the Act on Hungarians Living in Neighboring Countries. [http://www.venice.coe.int/docs/2001/CDL\(2001\)080-e.asp+paper+containing+the+position+of+the+hungarian+&hl=hu](http://www.venice.coe.int/docs/2001/CDL(2001)080-e.asp+paper+containing+the+position+of+the+hungarian+&hl=hu) (18,07,2005) p. 4.

²⁶ On November 12, 2004 President Ferenc Mádl, in a speech addressed to the Hungarian Permanent Assembly (MÁÉRT) spoke of the perception of the referendum initiative by external minorities as an act of historical justice and added: “I call upon Hungarians to use their votes to assume a sense of community with Hungarians outside of our borders.” <http://www.martonaron.hu/kettosallampolgarsag/kronologia.html> 17/02/2005.

²⁷ 63.33% of eligible voters stayed away from the referendum. Among those who cast their ballots, 51.57% voted in favor of the reform, 48.43% against. “A kettős állampolgárságról, Adatok, állásfoglalások, elemzések”, http://www.martonaron.hu/kettosallampolgarsag/nepszavazas_eredmenyek.html, 17/02/2005.

²⁸ “A kettős állampolgárságról, Adatok, állásfoglalások, elemzések”, http://www.martonaron.hu/kettosallampolgarsag/nepszavazas_eredmenyek.html, (17/02/2005).

played a role, given the fact that apart from Slovakia, the average living standards of trans-border Hungarians are way below those of Hungarians in Hungary, and that the arguments of the Socialist Party against dual citizenship relied primarily on the costs of the reform. The one research carried out by the polling agency *Századvég* discovered that voters who rejected the initiative were mostly concerned about the social costs of the reform²⁹

Another motive for no-voters may have been the fear of instability on the borders resulting from conflicts with Hungary's neighbors. Moreover, some voters may have been influenced by the perception that the mass appearance of trans-border citizens in Hungarian elections may overturn the balance of Hungary's parliamentary system. What is sufficiently clear however is that, at least for now, the plan to introduce non-resident trans-border citizenship failed to win a popular mandate within Hungary itself and can, in the future, only be pursued against the context of a failed referendum. To quote one of the most outspoken opponents of the initiative, János Kis: "the offer was made to a nation of ten million to enlarge its homeland above the state-borders to the entire Carpathian basin. The nation refused to take the risk and accept the costs."³⁰ However, given the enormous disappointment of trans-border Hungarians with the result, the issues raised during the referendum campaign have not disappeared and are likely to remain on the agenda of Hungarian politics for some time to come.

Ethnicity and citizenship

Before summarizing the arguments of endorsers in favor of the reform and the arguments of opponents against the reform, a brief outline is in place on the general implications raised by the initiative.

The Hungarian suggestion associates eligibility for non-resident dual citizenship with membership in an ethnically defined community. Thus, in this version, dual citizenship would purposefully reaffirm the connection between ethno-cultural nationality and citizenship, which is precisely the connection that most immigration states have been trying to loosen up when they created dual citizenship. In the Hungarian scheme, citizenship for trans-border ethnic kins would create a legal tie between the Hungarian state and members of an ethni-

²⁹ 31% of respondents opposing the initiative quoted high social costs and the problem of pensions as their main grounds for rejecting the initiative. Hová tűntek a népszavazók? – főllentő ország. December 14, 2004. <http://www.gondola.hu/cikk.php?szal=39684&part=2> (28,08,2005)

³⁰ Kis, János: Nemzetegyesítés vagy kisebbségvédelem. *Élet és Irodalom*, December 17, 2004.

cally defined community who reside outside the Hungarian state, thus creating a form of non-resident or extra-territorial citizenship.³¹

Advocates of the reform wished to overcome this difficulty by presenting their plan as based on a traditional *jus sanguinis* concept rather than the concept of ethnicity.³² In this view, trans-border citizenship is not something that would newly be granted to ethnic Hungarians. Trans-border Hungarians would only be „regaining” the citizenship of their ancestors who had possessed the citizenship of the Hungarian state before the First World War.³³ However, there are several difficulties with this approach.

The first difficulty is political. After the First World War those Hungarians who ended up as minorities in neighboring states were obliged, by the Peace Treaties, to opt for the citizenship of their new home state, or if they declined to do so, they were obliged to move to Hungary. Therefore, in the eyes of Hungary’s neighbors, any unilateral change in the citizenship status of minority Hungarians would amount to a unilateral breach of treaty obligations, to a revision of the terms of the peace treaty that still serves as the basis of international legitimacy for the existence of the borders of these states.

Second, trans-border populations whose ancestors bore the citizenship of a larger Hungarian state in the Dual Austro-Hungarian Monarchy before the First World War include millions of non-Hungarians. Therefore, even if the *jus sanguinis* view was applied, the only way to narrow down eligibility

³¹ Fowler, Brigid: Fuzzing citizenship, nationalising political space: A framework for interpreting the Hungarian ‘status law’ as a new form of kin-state policy in East-Central Europe. Centre for Russian and East European Studies, European Research Institute, University of Birmingham, Working Paper 40/02, www.one-europe.ac.uk/pdf/w40fowler.pdf, (22/02/05).

³² For example, the draft law submitted on July 9, 2004 by the small right-wing nationalist party, MDF (Hungarian Democratic Forum) which would have made eligibility dependent on *ius sanguinis* (proof that the applicant’s ancestors possessed Hungarian citizenship), without a language exam, but conditional on the applicant’s declaration of his/her Hungarian nationality. A similar suggestion was made a year earlier by István Szent-Iványi of the liberal SZDSZ party, who suggested that by receiving transborder citizenship applicants would merely recover Hungarian citizenship that had been taken away from them, but would have narrowed down eligibility with the instrument of language exam. *Heti Válasz*, September 9, 2003.

³³ According to paragraph 69. § 2 of the Hungarian constitution Hungarian citizens who had emigrated from Hungary retain their Hungarian citizenship. This, however does not apply to former citizens of Hungary in the neighboring states who had lost their Hungarian citizenship as a result of the peace treaties that redrew the borders of the Hungarian state. The possibility of inheriting Hungarian citizenship applies only to people whose right to Hungarian citizenship is derived from their connection to the territory of the state of Hungary as delineated in the Paris Peace Treaty of 1947.

for Hungarian dual citizenship to those with a Hungarian ethno-cultural affiliation would be to apply a strictly ethnic definition that restricts eligibility to Hungarians.

A third difficulty has to do with the dimensions of the population potentially affected by the *jus sanguinis* view. Given the fact that in 1920, Hungary's population had been reduced to half of what it had been before the war (with a corresponding reduction of two-thirds of its territory), the idea that *jus sanguinis* transmission could automatically create dual citizens after any number of generations would amount to the obligation to reactivate the "dormant" citizenship of people whose numbers may well surpass the current number of Hungarian citizens.³⁴ Moreover, beyond such problems arising from the mere size of the potentially eligible population involved, this approach would also go against current international standard practice that citizenship should express a genuine connection between the citizen and the state. Consequently, contemporary states operate under an unwritten consensus on an "informal second generation cap" on ties of states with members abroad. Accordingly, ties of membership should cease to exist beyond the second foreign-born generation of expatriates, or "where those ties had been cut already, they should not be recoverable in a preferential way".³⁵

Dual citizenship and voting rights

The next issue that emerged in the debate was the problem of voting rights and the impact that the reform could potentially have on democratic institutions within Hungary. Although the referendum question itself did not clarify the substantive content of non-resident citizenship, the general perception that emerged within Hungary was that even if initially, trans-border citizenship would be created without a right to vote, in the long-run, it would most probably still lead to the enfranchisement of would-be trans-border citizens. Were this to happen, opponents of the reform argued, the appearance of masses of trans-border voters in Hungarian elections would run counter to the principle of popular sovereignty and democratic self-determination within Hungary itself, putting Hungarian democracy under pressures it may not be able to withhold.

From the point of view of voting rights, the first important feature that had emerged from the reform initiative was the potentially weak distinction between active and inactive citizenship for dual citizens. In most immigration

³⁴ The peace treaty of 1920 reduced Hungary's population from 18,2 million to 7,9 million and its territory from 282 thousand sq. kilometers to 93 sq. kilometers.

³⁵ Christian Joppke: *Citizenship between ...*, op. cit., 13.

states, transnational dual citizenship implies that only one between the two citizenships is active, so that the rights associated with the alternate citizenship are resting and they can only be activated once the alternate citizenship is put to rest.³⁶ However, in the case of Hungarian trans-border citizenship such clear-cut distinctions between periods of active and inactive citizenship would be hard to make. Hungarian trans-border citizenship, if ever instituted, is more likely to be in line with that of Croatia where trans-border dual citizens retain some of their rights associated with Croatian citizenship, including voting rights, even at times when their alternate citizenship is active.³⁷ However, while trans-border Croats vote for fixed number of expatriate seats, trans-border Hungarians would most likely be able vote for regular seats without putting their alternate citizenship to rest. This is because Hungarian regulations on the declaration of residence are rather lax, requiring only three months of residence for the citizen to activate his/her right to vote. Moreover, in order to avoid the disenfranchisement of the homeless, voters can be admitted to the voters' registry without actually possessing an address or residence permit, simply based on a declaration of residence at a given locality at the communal office. Thus, in the present legal framework, trans-border citizens would find it technically easy to assume permanent residency in Hungary without surrendering permanent residency in their country of first citizenship, thus, in effect, becoming not only dual citizens, but also dual residents with dual voting rights.³⁸

Therefore, with regard to the potential content of non-resident trans-border citizenship, the general perception that has emerged in Hungary is that even if dual citizenship would initially be created without voting rights, it would only be a matter of time before substantial numbers of trans-border voters would cast

³⁶ Cf. Thomas Faist: *Transnationalization in International Migration: Implications for the Study of Citizenship and Culture*. <http://www.transcomm.ox.ac.uk/working%20papers/faist.pdf> (28/02/05).

³⁷ Trans-border Croat dual citizens retain their right to vote in Croatian elections. According to recent changes in Italian law, Italian non-resident citizens may also vote in referenda and national elections for 12 fixed seats. However, the numerical dimensions of the Italian case are radically different from the Hungarian case: there are altogether 2,7 million non-resident Italian citizens, projected to grow at the maximum with 200 000, still only making up cca. 3 % of the size of the resident-citizensry of Italy as opposed to the size of the transborder Hungarian population making up 30–35% of the current citizenry of Hungary. Balázs Vizi: *A határon túli olaszoktól a külföldön élő olasz állampolgárokig – az olasz állampolgárság kiterjesztése az ezredfordulón. Kisebbségkutatás*, Nr. 4, 2003.

³⁸ Cf. The current debate in the USA on the voting rights of dual residents, In: Ashira Pelman Ostrow: *Dual Resident Voting: Traditional Disenfranchisement and Prospects for Change*. *Columbia Law Review*, Nr. 102, 2002.

their ballots either in Hungary proper, or at Hungarian consulates in the neighboring states.³⁹ Arguing for the introduction of expatriate voting, experience of low turnout of expatriates for voting in other European countries led experts of the Council of Europe to conclude in 1999 that, in case of newly introducing expatriate voting “a hypothetical mass invasion of electors from abroad” is unrealistic.⁴⁰ Nonetheless in Hungary where elections are usually won by a narrow margin, the appearance of trans-border voters could still mean that “the outcome of Hungarian elections would regularly be decided by voters who do not pay taxes in Hungary and who are, in general, not subject to its laws.”⁴¹

It is hard to substantiate this claim by even a rough assessment of the number of potentially eligible new voters in the Hungarian elections. Those trans-border Hungarians who, after 2001, decided to apply for a Hungarian Identity Card, are most likely the first group ready to apply for extraterritorial Hungarian citizenship, if instituted. Their numbers by 2004 added up to 774,288 people of whom approximately 514,000 were of voting age.⁴² In the 2002 elections, a quarter of this number would have sufficed to produce the swing votes that would have decisively changed the outcome of the parliamentary elections. Thus, voting rights for trans-border Hungarians could easily mean that external voters may acquire a crucial influence on the result of an election. In its opinion of March, 2002, The Venice Commission of the European Council considered this kind of decisive influence by external voters as highly problematic.⁴³ Inherent in such a solution would be that those casting the swing votes may be people who are not subject to Hungarian law and had never even lived in Hungary so that their political choices would be made on a highly selective image of issues and candidates. An example of elec-

³⁹ The vice-president of the World Federation of Hungarians, Imre Borbély outlined the initiative in: A magyar állampolgárság alanyi jogának kiterjesztése minden magyarra. [The extension of Hungarian Citizenship as an Entitlement for every Hungarian] *Magyar Kisebbség*, Nr. 2-3, 1999. <http://www.hhrf.org/magyarkisebbsceg/9902/> His proposal included that transborder citizens would be eligible to stand as candidates in Hungarian elections.

⁴⁰ Recommendation 1410 (1999) “Links between Europeans living abroad and their countries of origin” (Extract from the Official Gazette of the Council of Europe – May 1999) <http://assembly.coe.int/Documents/AdoptedText/TA99/EREC1410.HTM> (07,05,2005)

⁴¹ Kis, János: Miért megyek el szavazni. [Why am I taking part in the voting?] *Népszabadság*, November 20, 2004.

⁴² Zoltán Kántor and Melinda Császár: A státustörvény hatása a határon túli magyarokra. [The Effect of the Status Law on Trans-border Hungarians] (Manuscript in possession of the author)

⁴³ European Commission for Democracy Through Law (Venice Commission), Consolidated Opinion, on the law on the election of members of the representative bodies of local and regional self-government units of Croatia, March 12, 2002. [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)003-e.asp](http://www.venice.coe.int/docs/2002/CDL-AD(2002)003-e.asp), p. 7. (07,18,2005)

toral mobilization on such selective grounds was already provided by the chairman of FIDESZ, Viktor Orbán who, in the summer of 2005 urged trans-border Hungarian communities “to regard themselves as mirrors and assess parties within Hungary in the light of how these parties respond to their claims.”⁴⁴

Another concern with trans-border expatriate votes has been the radicalizing effect of such a system. Based on a survey of countries that allow non-resident voting, David Martin argued that votes by non-resident citizens might easily lead to more extremist election outcomes, as people do not have to live with the consequences of their vote.⁴⁵ This is what happened in Croatia in 1995 when Franjo Tuđman’s belligerently nationalist party won the elections with votes by Croats abroad, including Croats in Bosnia-Herzegovina whose votes were 90% in favor of Tuđman.⁴⁶ Votes by non-resident Croats regularly support the nationalist HDZ party, so much so that in the 2005 presidential elections, the HDZ’s presidential candidate received a third of all his votes from Croats in Bosnia and elsewhere outside Croatia. On the night of the elections the winner of the race, Stipe Mesić of the contending Croatian People’s Party declared that, in contrast to Tuđman, he considered himself a president “of all Croatian citizens”, not of “all Croatians”, and announced his intention to withdraw the voting rights of the Croatian diaspora.⁴⁷

In view of the possible consequences on the Hungarian political and welfare system, as well as on the country’s international relations, it is hardly surprising that the proposal created passionate debates within Hungary. At stake in the debate for some participants was the question of whether or not Hungary is in fact experimenting with ideas that are pulling her away from, rather than bringing her closer to „mainstream” Europe. As János Kis summarized it, the victory of “yes” votes would put Hungarian parliamentarism in danger and transform the nature of Hungarian democracy.⁴⁸ All in all, he concluded, “the victory of

⁴⁴ Modernizációs és kortesduma. [Modernization and electioneering] Report on the Speech by Viktor Orbán on Tusnád, 23/7/2005, <http://politika.transindex.ro/?cikk=3424> (23,07, 2005)

⁴⁵ “Citizenship in Countries of Immigration: Australia, Canada, and the United States, Conference on Comparative Citizenship, Carnegie Endowment for International Peace, June 4, 1988. <http://www.ciaonet.org/conf/cei06/ceip> (7/11/2005.)

⁴⁶ Katherine Verdery: Citizenship and Property in Eastern Europe. *The Journal of the International Institute, The University of Michigan*, Vol. 4. No.3, Summer, 1997. 3. Non-resident Croats are entitled to a maximum of 12 parliamentary seats (out of 152) which more than balances out the 8 seats reserved for minorities within the country (*Népszabadság Online*, January 19, 2005, <http://www.nol.hu.cikk/348853/>)

⁴⁷ *Népszabadság Online*, January 19, 2005, <http://www.nol.hu.cikk/348853/>)

⁴⁸ Kis, János: Miért megyek el szavazni? op. cit.

„yes votes” would pull us back to the murky nationalism of past ages, it would lock up Hungarian politics in the prison of revisionist nostalgias, it would poison public life within Hungary as well as our relationship with neighboring states and with trans-border Hungarians, and it would damage the level of our acceptance within the European Union.”⁴⁹

Compatibility with European norms

In stark contrast, advocates of the initiative argued that their proposal is modeled on concepts and processes that are part and parcel of an integrated Europe, putting into effect, as it were, a smaller version of the European process, some kind of smaller Hungarian integration across state borders. Non-resident trans-border citizenship, they argued, belonged to the vision of a future Europe, to a de-territorialized world in which state borders no longer rigidly assign individuals with multiple identities to a single territorial state, a vision in which people are allowed to move back and forth across „soft borders” and in which they are also entitled to a legal expression of the free choice of their nationality.

Responding to objections that not non-resident trans-border citizenship would be incompatible with European norms and practices regarding the connection of citizenship to ethnicity, advocates pointed to the fact that all European states accept ethnicity as part of the basis of citizenship. Most of them even “make provisions for the acquisition of benefits, including citizenship, for ethnic kins who are citizens of another state.”⁵⁰

The problem with European norms and practices, they argued, is not that the connection between ethnicity and citizenship does not exist. But that Europe is in a process of denial about this connection, treating ethnicity as though it was a disreputable relative on whom we rely secretly, but hide from others.⁵¹ To substantiate this claim they pointed to examples of non-resident citizenship for ethnic kins within the European Union. Indeed examples of ethnic preferentialism abound in the citizenship policies of EU Member States. Italy created non-resident citizenship for people of Italian descent and has recently expanded eligibility for non-resident citizenship⁵², Germany offered non-resi-

⁴⁹ Kis, János, *Miért megyek el szavazni?* op. cit.

⁵⁰ Schöpflin, George: *Citizenship and Ethnicity: The Hungarian Status Law*. In Zoltán Kántor et al. (eds.): *The Hungarian Status Law*, 22.

⁵¹ Schöpflin, op. cit.

⁵² Law 2000/379 offered Italian citizenship to descendants of the territories that were ceded to Italy by the post-World-War One treaties in case their ancestors emigrated from these territories before 1920, but did not extend this offer to the descendants of Italians in

dent citizenship to Silesian Germans in the early 1990s thus providing dual citizens of Poland and Germany with access to European Union citizenship and in 2002, Greece announced plans to offer non-resident trans-border citizenship to the Greek minority in Albania, Spain waived the residence requirement for children of emigrants to recover Spanish citizenship, and reduced residency requirements for naturalization for descendants of Spanish ancestors. In 1997, Britain granted the right to opt for British citizenship to part of Hong Kong's population and in 2002, most British Overseas Territories Citizens became European citizens through their being granted British citizenship.⁵³ In none of these instances did the European Commission or other Member States voice protest, nor did the amendments of the treaties on dual nationality, concluded between Spain and Latin American countries, which entitled persons of dual Spanish-Latin American nationality to apply for a Spanish passport, lead to protests. These precedents, one could argue, point to the legitimacy, even within the core nations of the European Union, of using dual citizenship for the inclusion of ethnic relatives from abroad in the citizenry of the homeland.

Besides citing these precedents, advocates of the Hungarian reform could also point to the actual policies of the European Union. Ethnic preferentialism in citizenship legislation of Member States has not been challenged by the European Union. On the contrary, in the famous *Micheletti* case of 1992 that involved the recognition, by Spain, of the Italian citizenship, and thus Member State legal status of the Argentinian citizen, Mario Vincente Micheletti, who had been granted a second, Italian citizenship on grounds of descent. The European Court of Justice did not question the ethnic preferentialism inherent in Italian citizenship law and affirmed the principle that no Member State of the European Union is entitled to overrule the citizenship policies of another Member State, not even if those policies are based on ethnic preferentialism. With this, the Court also implicitly admitted "it did not consider the permissive Italian legislation to be in violation with

Dalmatia, Istria and Fiume that were ceded from Italy to Yugoslavia by the post-war treaties. In fact, it is this latter group that bears some analogy to transborder Hungarians, but the ancestors of these people were obliged to opt for the citizenship of their new sovereign by the peace treaties.

⁵³ The British Nationality (Hong Kong) Act of 1997 was adopted shortly before the transfer of Hong-Kong to China, The Act of 21 May 2002, most British Overseas Territories Citizens became European citizens through their being granted British citizenship. Gerard-René de Groot: Towards a European Nationality Law. *EJCL*, Vol. 8. 3 October 2004, http://www.ejcl.org/83/art83-4.html#N_54_ (08,08,2005)

the principle of loyalty to the Union”.⁵⁴ Nor has the Union challenged ethnic preferentialism in cases of Member States, such as Italy or Spain, which have either adopted, or expanded such policies after 1997, the year of concluding the European Convention on Nationality.

Arguments against

Opponents of the reform challenged this interpretation of larger European processes. First, even though the EU left the regulation of citizenship in the competence of member states, it would still regard the ethnicist turn in Hungarian legislation as a breach of common principles laid down in European agreements. Second, they argued that the 1997 European Convention on Nationality, ratified by Hungary in 2001, restricted the recovery of former nationality of a given state to those residing on its territory and thus ruled out the granting of non-resident citizenship to ethnic relatives.⁵⁵

The apparent inconsistency between this restriction and the failure of the European Union to challenge the permissive policies of its Member States in granting non-resident citizenship may be explained by the fact that the Convention did not require the elimination of preferential provisions that had already been in force before the adoption of the Convention. It is perhaps no co-incidence that most Member States that have permissive preferential policies of granting citizenship have not yet ratified the convention (eg. Italy, Greece, Spain, United Kingdom).

Second, opponents criticized the suggestion of unilateral legislation for the confrontational political attitude it implies. The problem with unilateral action is not so much that it violates international law, but that it is self-defeating. To quote János Kis again: the unilateral creation of Hungarian citizens on the territory of other states is nothing but a „mirage” that provokes „phony wars over phony questions and phony answers”.⁵⁶

⁵⁴ Maarten Vink: Europeanization and Domestic Choice: Naturalization Policy in the Netherlands. [⁵⁵ Especially in the European Convention on Nationality \(1997\) ratified by Hungary in 2002 which stipulates in Article 2/a that “nationality” means the legal bond between a person and a State and does not indicate the person's ethnic origin’, and restricts the “recovery of former nationality” of a given state to those residing on its territory. <http://conventions.coe.int/Treaty/en/Treaties/Html/166.htm> \(06,03,2005\) Cf. Tóth, Judit: Kettős állampolgárságot Népszavazással? \[Dual Citizenship by Referendum?\] *Fundamentum*, Nr. 2, 2004.](http://216.239.59.104/search?q=cache:CHoGmn7FqeYJ:www.essex.ac.uk/ecpr/standinggroups/yen/paper_archive/3rd_euro_ss_papers/vink.pdf+groot+dual+citizenship+without+voting+rights&hl=hu,(02,08,2005) p. 6.</p>
</div>
<div data-bbox=)

⁵⁶ Kis, János: Miért megyek el szavazni? op. cit.

Nor can the creation of dual citizenship be justified, opponents argued, by reference to the fact that trans-border minorities would approve of such a move. First, trans-border minorities themselves have been divided over the issue. For example, before 2003, the biggest Hungarian party of the robust Hungarian minority of Romania, with substantial representation in the Romanian parliament and government, had only been, at best, lukewarm about dual citizenship. However, at the same time, the most vocal advocates of trans-border Hungarian citizenship also came from Romania and they relied on a substantial constituency. Minorities themselves do not speak with a single voice because the attitudes of the different groups of which they are composed are derivative of the long-term view each of these groups take on the possibilities of negotiating a better status, possibly autonomy, for themselves in their host states. But even if the idea of dual citizenship would enjoy the support of the majority of trans-border Hungarians, so the argument goes, this support would be based on a populist misrepresentation of what is actually possible.⁵⁷ At the end, any unilateral move by Hungary to create dual citizenship would remain “a game of illusions played between Hungarian nationalists and a minority within the Hungarian minority” in a useless, but “ritual display of imagined political togetherness.”⁵⁸

Third, critics argued that dual citizenship is incompatible with the claims of autonomy by trans-border minorities. The claim for trans-border citizenship rests on the implicitly irredentist slogan of „national unification over and above the borders” which provokes fears in the neighboring states even if its advocates forego the idea of a physical change of borders. On the other hand, the claim for minority autonomy implies a negotiated effort to secure collective rights for minorities in the field of linguistic, educational and cultural rights, including the right to territorial autonomy in regions where the minority forms a majority. Concurring with Rainer Bauböck critics maintained that „claims for multiple citizenship and territorial autonomy should be seen as mutually incompatible. They would create fears in the host society about irredentist threats to its territorial integrity that cannot be easily dismissed as unreasonable.”⁵⁹

Therefore, according to the opponents of dual trans-border citizenship, in the final analysis, Hungary must take a new look at its own choices about the ultimate, long-term aims of its homeland policies regarding kin-minorities.

⁵⁷ Bauer, Tamás: *Kettős Kapituláció*. [Dual Capitulation] *Népszabadság*, 2004, January 8.

⁵⁸ Kis, János: *The Status Law: Hungary at the Crossroads*. In Zoltán Kántor et al. (eds.): *The Hungarian Status Law*, op. cit, 22.

⁵⁹ Bauböck, Rainer: *Citizenship and Political Integration*, 2nd Workshop on Global Migration Regimes, June 11–12, 2004. <http://www.framtidstudier.se/eng/globalMobReg/CitizenshipandPoliticalIntegration.pdf>, p. 23. (06,03,2005)

One – bad – option would be to remain with the discourse advocated by the two mainstream right-wing parties of recreating a “unitary Hungarian nation” over and above existing state-borders by means of creating legal bonds between parts of the Hungarian nation living in several countries.⁶⁰ The need for self-reflection by Hungary is all the more pressing, as the discourse of “national unification” has already, to some extent, “become standard not only in Hungarian politics, but also in legislative language”.⁶¹ The concept of a “unitary Hungarian nation” had been used in the original formulation of the Status Law of 2001, though it was later deleted from the version of the law amended after criticism from the European Commission. Nevertheless, it was revived as a slogan during the campaign for dual citizenship and seems to have become part of the rhetoric of the mainstream nationalist parties.

According to the critics, Hungary should revise this confrontational approach because it rests on the outright ignorance of the sensitivities of other states. Instead, it should clearly articulate, or re-articulate its policies in the conceptual framework of minority protection. Hungary must accept that trans-border Hungarians are the citizens of the states and that their long-term well-being depends on the solutions they are able to work out with majority societies. As the Transylvanian sociologist, Béla Bíró put it few days after the referendum, “what can help us is not ‘national unification above existing borders, but collective integration into the political community of the states in which we live’.”⁶² One of these states, Slovakia, is already a member of the European Union. Another, Romania is a candidate for accession in a year or two. Yet, others, as Serbia-Montenegro and the Ukraine are likely to remain outside the Union for some time to come. The way Hungary should promote the protection of Hungarian minorities differs from case to case, but they should all be able to count on Hungarian support in their efforts to secure equal individual and collective rights, including the right to autonomy, in their home states. They should all have access to completely free travel to and from Hungary as well as support for maintaining cultural and educational links with Hungary.

⁶⁰ Stewart, Michael: The Hungarian Status Law: A New European Form of Transnational Politics? In Zoltán Kántor et al. (eds): The Hungarian Status Law, op. cit. The program of the “unification of the Hungarian nation” was advocated by the then Prime Minister Viktor Orbán in 2001: “We have been waiting for eighty years for a bond, in a legal sense as well, to be formed between the parts of the Hungarian nation torn from each other, so that links may emerge that go beyond the existing spiritual ties.” (Quoted in Kis, János: Nemzetegyesítés vagy kisebbségvédelem. op. cit.)

⁶¹ Stewart, op. cit.

⁶² Bíró, Béla: Nem jó, de hasznos. *Brassói Lapok*, December 10, 2004.

Fourth, as indicated above, critics objected to the impact the reform could have on democratic institutions within Hungary. Even if non-resident trans-border citizenship would initially be created without a right to vote, in the long-run, it would most likely lead to the enfranchisement of trans-border citizens, the same way as the Status Law led to the claim for dual citizenship for all recipients of the Hungarian Identity Card. Were this to happen, the appearance of masses of trans-border voters in Hungarian elections would run counter to the principle of popular sovereignty and democratic self-determination within Hungary itself, putting Hungarian democracy under pressures it may not be able to withhold.

Final remarks

In conclusion, a few words on the ambiguities with regard to the arguments of both sides in the debate. The idea of dual citizenship emerged in Hungary with reference to a larger international process of the increasing use and tolerance of dual citizenship, partly within the European Union and partly within the East-Central European region. However, while in the major immigration states of Europe dual citizenship has been espoused above all by the political left as an instrument of integrating labor migrants, in Hungary, as in many other states of the region, the demand for dual citizenship has mostly, if not exclusively emanated from the political right and is predominantly directed at trans-border ethnic relatives. Thus, in the Hungarian referendum debate, the battle over dual citizenship has been cast as a debate between the nationalist right, as supporters, on the one hand, and the Europe-oriented liberals, as opponents, on the other.

However, this representation of the debate is, to some extent, self-made and arbitrary, especially as it relies on the anticipation, by the left, of what “Europe” “really” stands for. In fact, as has been observed in Spain, Italy and France, in its support of dual citizenship for ethnic relatives, the political right has partly been drawing on the arguments of European liberals for dual citizenship, amounting, in Christian Joppke’s terms, to a “piracy” of the arguments of the left, by the right.⁶³ At the same time, liberals relied on counter-arguments they claimed to have extrapolated from relevant European norms and practices. However, these practices are much too diverse to form the basis of a coherent interpretation, even more so as the influence of international law on the domain of citizenship remains negligible.⁶⁴ Recent debates on dual citizenship

⁶³ Christian Joppke: *Citizenship between ...*, op. cit. 19.

⁶⁴ Christian Joppke: *Citizenship between ...*, op. cit. 13.

in other European countries, for instance in the Netherlands, show that, just as in the case of Hungary, 'European' arguments can be brought into the discussion on all sides of the debate on extending access to citizenship based on the principle of dual nationality.⁶⁵ In fact, a number of European Union states written into their citizenship law, some quite recently and the EU has not requested that they eliminate them.⁶⁶ To the extent that such reforms are challenged, these challenges usually arise from domestic pressures, as was the case in Germany in the 1990s.

Unsurprisingly, at the end, neither side in the Hungarian debate was able to present a coherent interpretation of those principles and international norms and practices that would support their respective positions. In the final analysis, it is quite possible that the conflicting stances of the left and the right will stem from concerns that are only vaguely connected to the problems of trans-border Hungarians. It is quite possible that the conflict between the political right and the political left over dual citizenship is a result of conflicting opinions and concerns about the long-term stability of Hungary's transitional democracy. After all, in Hungary parliamentary practices look back to only little over a decade. Yet in the Hungarian context the creation of trans-border non-resident dual citizenship would most likely amount to a mass enfranchisement of a new electorate that, similar to all episodes of mass enfranchisement in the past, would introduce new uncertainties in the system and could lead to an internal destabilization of Hungarian democracy itself. In this respect, both sides share the same intuition, namely that if instituted, trans-border citizenship would most likely have the effect of freezing the regular rotation of parliamentary forces for some time to come in favor of the political right: a prospect that is as welcome on one side as it is feared on the other.

⁶⁵ Marteen P Vink: The Limited Europeanization of Domestic Citizenship Policy: Evidence from the Netherlands. *Journal of Common Market Studies*, December, 2001. 880.

⁶⁶ Gerard-René de Groot, op. cit.