

17. NATIONALIST INFILTRATIONS IN THE ROMANIAN CONSTITUTION

The nationalist agitation of 1990 and 1991 went far beyond verbal strife and mere demagoguery. Like radioactive junk, it left traces that affect Romanian life to this day. The nationalist agitation infiltrated the Constitution and thus determined, in the long run, the mentality and the practice of political actors.

The nationalist and conservative bearing of several articles in the Romanian Constitution was clearly apparent during the debates in the Constitutional Assembly. Rather than define the essence of the Romanian state by reference to democratic and humanist values, the preamble of the basic law included the slogan-like phrase “the national and unitary state”. A phrase which former Minister of Foreign Affairs Adrian Severin aptly criticized as interpreting “national” as “nationalist” and “unitary” as “centralized”.¹²⁴

This is not a *post factum* simplification of the meaning of these words in the Constitution. Rather, there has been a deliberate attempt to impregnate the basic law with nationalist wisdom and the proof is easy to read in the comments of the team that drafted the Constitution. In their 1992 volume, the “fathers” of the Romanian Constitution, Mihai Constantinescu, Ion Deleanu, Antonie Iorgovan, Ioan Muraru, Florin Vasilescu and Ioan Vida described the state in purely ethnocratic terms.¹²⁵ Their argument ran as follows: (1) the state is “national” because it is the expression of the organization of a nation; (2) the nation is based on “the community of ethnic origin, language, culture, religion, spirit, life, traditions and ideals.”¹²⁶

The state is “unitary” because “it has one center of political and governmental impulse.”¹²⁷ To the authors of the constitution draft, the pyramid acted as an inspirational structure: “The unitary state ... is similar to the geometric figure of the pyramid.”¹²⁸ This structure “is the only one adequate to represent the Romanian state

¹²⁴ Adrian Severin, “Federalism-federalizare-separatism”, in his *Europa 2000. Contribuții la dezbaterile privind viitorul Europei*, InterGraf, 1999, p. 37.

¹²⁵ Mihai Constantinescu, Ion Deleanu, Antonie Iorgovan, Ioan Muraru, Florin Vasilescu, Ioan Vida, *Constituția României, comentată și adnotată*, Regia Autonomă “Monitorul Oficial”, 1992.

¹²⁶ *op. cit.*, p. 7.

¹²⁷ *idem.*

¹²⁸ *idem.*

with its homogenous population and a clear numeric majority.”¹²⁹ Hence Art. 1 cannot be revised.¹³⁰

It is therefore not surprising that on the basis of these conservative notions Art. 4 can serenely proclaim that the foundation of the State is the unity of the Romanian people. Reductive and offensive to the minorities, this is the most ludicrously nationalist statement in our fundamental law. It is also the reason behind the wave of protests that accompanied the adoption of the Constitution, and behind the resignation of Károly Király after the party he belonged to, the UDMR, was defeated in one of its most important battles: that of introducing a multicultural paradigm in the basic law.

At the various seminars, round-tables, and workshops that I attended after December 1991¹³¹ I referred to the conservative-nationalist paradigm of the Constitution. The UDMR did the same thing. Yet from a certain point, complaining about a settled fact now seemed counterproductive. After all, Articles 1 and 4 could be considered as simply declarative and rhetorical in nature. The Constitution made room for decentralization and for the adequate protection of minorities. Art. 6(1) acknowledges “the right of persons belonging to national minorities, to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity”. Parliament seats are set aside for minority communities and justified in terms of a collective right – and a very clear-cut one at that – which is absent in many similar documents.

Since in the mid-1990s there were no opportunities in sight to change the Constitution – and it is not a good idea to change a constitution too often anyway –, the only way out of constitutional dilemmas was the positive way. One had to look away from the words of the Constitution and see what could be done on a political level. In 1995, APADOR-CH suggested a solution for overcoming the ambiguities in the interpretation of the articles concerning the “national and unitary state”: “... it is necessary to define explicitly the civic character of the term ‘national’ in the text of the Constitution so as to leave no room for other interpretations, and to avoid the disputes

¹²⁹ *op. cit.*, p. 8.

¹³⁰ As a matter of fact, in order to be revised it needs the prior revision of Art. 148(1), which sets forth limitations in the revision of the Constitution.

¹³¹ The month in which the Constitution was adopted.

that may harm interethnic peace arising from said interpretations. The German case seems to be a good model. In referring to Art. 20 of the German Constitution, which employs the terms ‘Volk’ (people), the German Constitutional Court noted, in its October 31, 1991, decision, that the term ‘Volk’ in the Constitution signifies the community of the citizens of the Federal Republic. This solution would be salutary in Romania as well, as it would rule out an ethnicist interpretation of the concept ‘national’ in the constitutional text, and hence the possibility of disputes in this respect. One option would be to suggest to the UDMR that instead of contesting Art. 1(1) of the Romanian Constitution it could negotiate with the interested political groups an explicit definition of the civic sense of the term ‘national’ in the text mentioned above.”¹³²

Political solutions were available. Unfortunately, this was precisely the problem: it was not the letter of the Constitution but the political reality surrounding it that really mattered. The fall of 1992 was, once again, general election time.

¹³² APADOR-CH communiqué of February 24, 1995 (APADOR-CH Report, Bucharest, 1995).

18. NATIONALIST DOMINATION BETWEEN 1992 AND 1996¹³³

The victory of the Party of Social Democracy in Romania (PDSR) in 1992, the surprising success of the Party of National Unity in Romania (PUNR), and the presence of the Greater Romania Party (PRM) and the Socialist Workers' Party (PSM) in the Parliament sealed the fate of the country until the following round of elections.¹³⁴ These four parties (plus the Democratic Agrarian Party of Romania, PDAR) made up the majority that supported the nomination of Prime Minister Nicolae Văcăroiu. As time went by, PDSR's allies got closer and closer to the center of executive decisions. In August 1994, PUNR obtained two ministries (that of Communications, headed by Adrian Turicu, and that of Agriculture and Food, headed by Valeriu Tabără). That was also the time when it was discovered that Iosif Gavril Chiuzbaian was a member of PUNR. After PUNR officially secured its representation in the executive, Romania became the only European country with an extremist¹³⁵ party in the government.

Both PRM and PSM obtained sub-ministerial positions in the government. In January 1995, PDSR, PUNR, PRM and PSM signed a protocol to support prime minister Văcăroiu. From that moment on, the Romanian state turned anti-Hungarian. During the same month, Iosif Gavril Chiuzbaian (who was then the Minister of Justice) lent his support to the movement for the outlawing of UDMR. Also in January, the Greater Romania Party adopted a document which described several acts of the Hungarian organization as "anti-Romanian" and requested that UDMR be made illegal. The arguments put forward were this: "Hungarian parliamentarians voted against the Romanian Constitution"; "they complained before all international bodies to which Romania is a party about the rights of the Hungarian minority, thereby offering a false picture of the reality"; "UDMR members are obsessively featured on signature lists

¹³³ This chapter closely follows the study I co-wrote with Renate Weber in February 1995, perhaps one of our most important (but unfortunately inadequately promoted) writings ("Naționalism și stabilitatea statului de drept", *Studii internaționale*, No. 1, 1995, pp. 47-62).

¹³⁴ Only the stubborn naiveté of the Convention leaders could make them eagerly anticipate the fall of the government and early elections within a few months after the elections.

¹³⁵ Some authors opted in favor of the more technical term "hypernationalist". See John Mearsheimer, "Back to the Future: Instability in Europe After the Cold War", *International Security*, Vol. 15, No. 1, Summer 1990, pp. 5-56.

requesting the president's resignation and the dismissal of the government"; "UDMR leaders are regular visitors of Budapest"; "they refused to participate in the activities of the Council for National Minorities"; "they instituted a mini-parliament under the guise of the UDMR Council of Representatives and the Council of UDMR Mayors and Councilors; etc."¹³⁶

Nationalism within the government was not merely a matter of raised voices and heated antagonism. The accession of PUNR, PRM and PSM members to the governmental structures had a direct effect upon the activities of the ministries and other official bodies. This was a real reason for anxiety, since their influence could lead to a quasi-total control of the authorities and agencies in charge with national security.

Since the main structures in charge with national security are called upon to support Romania's interests on the long term and globally, national security institutions should ideally be independent of political circumstances. Their behavior is crucial to the state's ability to preserve internal stability and international credibility. From this perspective, Romania's institutional system appears extremely fragile. The relative independence of national security institutions from political actors is usually encoded in legislation and practice. Legislation provides the most important guarantees that national interests will prevail over contingent interests. Therefore, no matter how tiresome the review of the relevant legal norms, this step is necessary in order to understand the way practices and norms interact in Romanian society. Below is a short introduction to two of the fundamental laws concerning national security.

The Law concerning the creation, organization and operation of the Supreme Council for the Defense of the Country¹³⁷ (CSAT) and the Law concerning Romania's National Security¹³⁸ both predated the Constitution. One could easily see that both were full of glaring gaps and numerous other imperfections which placed in the hands of an extremist government various means of undermining democracy. In other words, the

¹³⁶ CARTEA NEAGRĂ A ACȚIUNILOR ANTIROMANEȘTI ȘI ANTIDEMOCRATICE PE CARE ORGANIZAȚIA TERORISTĂ UDMR LE DESFĂȘOARĂ DE APROAPE 5 ANI ÎMPOTRIVA ROMÂNIEI, *România mare*, No. 239, February 3, 1995. Capitals in the original.

¹³⁷ Law no. 39 of December 13, 1990.

¹³⁸ Law no. 51 of July 29, 1991.

norms were poor enough to allow for the, let us say, quasi-legal violation of democratic values and principles by the public authorities.

The Supreme Council for the Defense of the Country (CSAT) is the highest institution in the field of national security. It was established for the purpose of “organizing and coordinating in an unified fashion activities concerning the defense of the country and its security during peace and war time...”¹³⁹ The law set forth the prerogatives and the controlling powers of this body. One year later, the Constitution would state the following: “The Supreme Council for the Defense of the Country organizes and coordinates in an unified fashion activities concerning national defense and security.”¹⁴⁰ And that was all. No mention of powers and prerogatives, but merely a provision that CSAT reports are to be discussed during a joint session of the houses of parliament.

Under such circumstances, the organization and operation of the CSAT were left at the mercy of ordinary laws, that is to say of politicians. The language in which Law 39/1990 was framed pointed to a few other things as well. The phrase “the security of the state” was significant – the CSAT was supposed to exercise “any other functions concerning national defense and the security of the state”. But why “of the state”? The Constitution refers to “national security”, as do all relevant international documents, in order to emphasize that institutions are in the service of the nation rather than in the service of themselves. Since a state is a legal and political organization which has the power to request the submission and loyalty of its citizens,¹⁴¹ it follows that what the CSAT is supposed to protect is the Romanian state (the public authorities and the structures of power) rather than the nation. These are subtle nuances, which the layperson might easily overlook, but they may generate large-scale effects. In a state where the mutual control of the institutions (the so called “checks and balances”) is

¹³⁹ Law no. 39 of December 13, 1990.

¹⁴⁰ Art. 118 of the Romanian Constitution.

¹⁴¹ Hugh Seton Watson, *Nations and States*, London: Methuen, 1977, p. 1.

fragile, such subtleties are decisive, and even more so when the subject is that of security institutions.¹⁴²

The enhanced powers granted to the CSAT by its organization and operation law appeared especially problematic because the Council's powers were poorly circumscribed and subject to control. According to the law, the CSAT exercises "any other functions concerning national defense and the security of the state" without offering any hint about how these other functions are assigned to it. Not even the phrase "in accordance with the law", so common in the Romanian legal environment, made it into the document. One sunny day the Council, which is a body of public administration body, could simply substitute itself for the parliament and bestow upon itself any competencies specific to its field of activity that it may find appropriate. Add to this the fact that "the decisions adopted by the Supreme Council for the Defense of the Country are binding on the citizens, as well as on all other institutions and entities to the activities of which said decisions may refer."¹⁴³

The authors of the CSAT law designed an institution above control, a sort of military government.¹⁴⁴ It is true that the CSAT has to "submit to the Parliament through one of its members an annual report of its activities, as well as other reports, upon request by the Parliament, whenever deemed necessary."¹⁴⁵ But the law does not mention any powers of the Parliament with respect to this report and neither does it provide for any sanctions in the event that reports are not duly submitted.

Such legal errors or flaws have been exploited during the rule of the nationalist-extremist coalition.¹⁴⁶ The PUNR president requested that the Romanian President, in virtue of his powers granted by Art. 93(1) of the Constitution, declare a state of emergency in several localities in the counties of Harghita, Covasna, and Mureș.¹⁴⁷ It looked like the days of insults and verbal offenses were over. In was the era of real

¹⁴² Lest one should think that the whole affair was a matter of legal absent-mindedness or incompetence, I should note that in 1994, when a bill amending the Criminal Law was submitted to the Parliament, it included a new crime related to "the security of the state".

¹⁴³ Art. 9 of Law no. 39/1990.

¹⁴⁴ That such fears are not ungrounded was proven by the case of former Ministry of Foreign Affairs Adrian Severin, whose resignation was ultimately decided within the CSAT.

¹⁴⁵ See Art. 8 of Law no. 39/1990.

¹⁴⁶ [date]

¹⁴⁷ *Cronica română*, No. 618, January 30, 1995, p. 4.

threats with legal solid backing. The Romanian President did have the constitutional power to take such a step, which the Parliament had to approve within 5 days. According to its own status, the CSAT could analyze and approve “the necessary measures ... in a state of emergency”. As noted, such measures fall outside parliamentary control and are binding on all citizens.

Because of its membership, the CSAT is a very politicized structure. Eight of out ten members may belong to a political party: the prime minister, the industry and trade minister, the minister of national defense, the minister of the interior, the minister of foreign affairs, the head of the President’s Department of Political Analysis; the head of the Romanian Intelligence Service. The Council organizes and coordinates the activities of the SRI, which is an institution specialized “in the field of information concerning Romania’s national security.”¹⁴⁸

The CSAT’s power to institute discretionary policies in the field of national security was aggravated by other legislative flaws with respect to Romania’s national security. Any actions are permitted with the purpose of “defending” national security, including the “recording, copying or otherwise gathering of information by any means; the setting-up of devices, maintenance and relocation thereof...”

Who will prevent one from producing incriminating evidence against undisciplined, bothersome citizens in the name of national security? As a matter of fact, hasn’t this been a rather common procedure in the case of interethnic incitements? How can prosecutors’ warrants help in such a case? The safety and protection of citizens is not safeguarded by the prosecutor’s involvement, but only by the citizens’ power to contest the acts of prosecutors. And yet, in accordance with the law, “where appropriate, the general prosecutor may extend upon request the term of the warrant for up to 3 months at a time.”¹⁴⁹ The lack of any provision putting in place a limit for the term of the warrant means, in effect, that intelligence gathering activities can be extended to cover an individual’s entire lifetime. Indeed, the individual in question may never find out that his correspondence is violated, his phones are tapped, his movements are recorded etc. Such powers are characteristic of authoritarian regimes. In this case,

¹⁴⁸ Art. 1 of Law no. 14/1992.

¹⁴⁹ Art. 13, para. 5 of the National Security Act.

references to the national interest made by a nationalist regime led, as a study of the matter concluded, to norms that “substantially violate human rights.”¹⁵⁰

This brief discussion of acts adopted after 1990 was designed to show how legal imperfections were capitalized on by the nationalist regime that ruled the country between 1992 and 1996. The subordination of the rule of law to the ideological outlook of the PDSR-PUNR-PRM-PSD alliance is clearly visible in another text adopted in May 1994: “The Integrated Concept of Romania’s National Security”. The document was elaborated by the CSAT and subsequently submitted to the Romanian Parliament for approval. The chapter entitled “External risk factors” contained the following observation: “The distorted perception prevalent abroad on internal developments and the difficulties of the transition process, as well as the fact that political forces in Romania failed to adopt a concurring position on such matters, has resulted in the past and may do so in the future in reservations concerning Romania.” In other words, a critical assessment of the internal situation, coming from a Romanian citizen and communicated abroad, is a risk factor which threatens national security. People criticizing Romanian nationalism were directly targeted. This hypothesis – but is it a mere hypothesis? – was confirmed by the initiative of amending the Criminal Law to introduce the crime of “defamation of the country or the nation”, voted by the Romanian Senate in February 1994: “Public defamation by any means of the country or the nation is punished with between one to five years imprisonment.”

The deeper views advanced by the authors of the “Integrated Concept” were laid bare at the point where the document elaborated on the matter of external risk factors: “The main global risk factors include the explosion of nationalism and national rivalries, the deepening of ethnic tensions and religious intolerance, as well as the vulnerability of countries undergoing transition.” The implicit reference was to Hungary, Ukraine, and perhaps also Bulgaria, which at the time were asking questions about their ethnics in Romania. Interestingly, “internal risk factors” failed to include the

¹⁵⁰ A. Eide, Second progress report, “PROTECTION OF MINORITIES”, Sub-commission of Prevention of Discrimination and Protection of Minorities, Commission on Human Rights, ECOSOC, E/CN.4/Sub.2/1992/37, July 1, 1992, para. 18, p. 4.

same dangers of nationalism and nationalist extremism, despite the fact that they constituted the key sources of instability in Romania over the past four years.

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Yet nothing is more suggestive of the sway held over Romanian public institutions by the extremist-nationalist philosophy between 1992 and 1996 than the following set of documents issued by the Romanian Intelligence Service (SRI). (One should note here that, since there was no way to probe deeper into SRI's activities, the documents cited below were the only evidence that was publicly available.) The report on SRI's activities and competences in the field of national security covered the period between October 1993 and September 1994 and tells a lot more than its authors intended.

Says the Report: "actions such as those mentioned above ... have been isolated and failed due to lack of support within the targeted ethnic minority communities ..."; "It is worth stressing ... the constructive and fair attitudes of Hungarian individuals with respect to the majority population..." Were these mere euphemisms? Whatever one calls them, they merely underscore the point that the members of two Romanian minorities – the Hungarians and the Roma – are considered a danger to the Romanian state whenever they struggle for rights other than those accepted by the official bodies or when they support a different, unofficial interpretation of events involving minorities and the majority.

The Report refers to actions aiming at the "intensification of nationalism" and having "extremist and separatist" tendencies. And lest the "intensification of nationalism" should make one think of Vadim Tudor or Gheorghe Funar, the Report goes on: "Without in any way attempting to minimize their impact, one should note that appeals to confront the majority only strike a modest base".¹⁵¹ The SRI identified extremist-nationalist threats to the rule of law not only among the minorities, but also among "foreign extremist-nationalist organizations." Here is the exact reference: "the

¹⁵¹ See the Report, p. 5.

signature-gathering campaign supporting a bill on national minority education.” To the Romanian Intelligence Service, the exercise of a constitutional right, that of a legislative initiative undertaken by the citizens themselves, was a danger to national security. Hungarians’ campaign had become a target of intelligence operations and an issue of national security.

Then came the Roma. The SRI Report mentions, “the exploitation, for purposes of propaganda, of incidents between members of this ethnic group and other citizens, in the context of serious antisocial and criminal acts.” It goes on in the same vein: “It has to be stressed that in the limited number of conflicts that have taken place, the protagonists were the citizens involved rather than the ethnic groups to which they belonged. The events themselves were matters of local and personal circumstance.” So here is the SRI acting as ethnic turnsole. Or: “some elements among the Roma¹⁵² ... were responsible for incitement to actions meant to alter Romania’s image abroad, by means of denigrating and misrepresenting the realities in our country...” One such “element” was Sándor Csurkuly, head of the Roma Alliance, whom the Report nevertheless inaccurately introduced as president of the Târgu-Mureş branch of the Free Democratic Alliance of Roma in Romania. He is said to have “provided international bodies with distorted data concerning the Hărădeni conflict,¹⁵³ by misrepresenting ordinary antisocial criminal activity as interethnic conflict.”

What the Romanian Intelligence Service was saying, in effect, was that Sándor Csurkuly was under surveillance. (It is still unclear why he has not been prosecuted under charges of threatening national security.) It was equally obvious that the Report’s statements were meant to intimidate those critical of the current state of the country, and in particular individuals concerned with interethnic issues.

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Was the foregoing presentation of legal norms, reports and institutional decisions too technical? Perhaps, but without it we cannot really understand the world

¹⁵² Notice the phrase “elements among the Roma”.

¹⁵³ [to be explained]

we have been living in. One of the engines that push a society forward is this interaction between legal norm and activism. The images above provide us with a picture of the Romanian state between 1992 and 1996 – precarious legislation, perverted institutions such as the SRI, which allowed the political actors in power to play their own games their own way. While the frequent “introspections” of the representatives of the Bucharest regime invariably resulted in references to “an island of stability”, ethnic tensions had in fact reached a climactic level. The adoption of Education Law no. 84/1995 generated a widespread mobilization of the Hungarian community and could potentially trigger regional instability. The hyper-nationalist discourse promoted at government level shows that during the period in question (1992-96) Romania struggled with an ethnocratic problem. Important institutions of the Romanian state, such as the Supreme Council for the Defense of the Country and the Romanian Intelligence Service, sunk deeper and deeper in the nationalist mire, following the political leaders who headed and controlled them.

“The political foundations of the nationalist-extremist threat were constituted by the establishment of a majority coalition which included parties such as the PUNR, PRM and PSM. This nationalist-extremist majority coalition determined, simply by virtue of the political alliance perfected by the January 1995 protocol, the decisions of the legislative and the executive.”¹⁵⁴ The quote is the conclusion of a 1995 study on nationalism and the rule of law in Romania co-written by Renate Weber and me. The study was published in the bilingual journal *Studii Internaționale / International Studies*. The commonsense notions it advocated – though one should note here that the details of the argument are often more important than the general thesis – were the result of an almost private struggle. We had to painstakingly negotiate them with our colleague and collaborator Valentin Stan, who had consistently refused to endorse the broader point of view they expressed. To him, PUNR’s participation in the coalition was the root of all evil. We should leave the PRM and PSM out of the picture, he

¹⁵⁴ On this background, the PDSR’s statements in favor of Romania’s Euro-Atlantic integration were simply meant to create a smokescreen. How can you honestly desire to become a NATO member and yet co-opt in power the PUNR, the PRM and the PSM? It took new elections in 1996 to finally be able to throw overboard the gunpowder-barrel so precariously held in check by the 1992 coalition and to make Euro-Atlantic integration a real option.

argued. Eventually, our collaboration on the issue was dissolved in the debates. But this is another story, which had actually started long before, when the Helsinki Committee first entered the stage.

19. THE HELSINKI COMMITTEE ENTERS THE STAGE

Early debates revolving around the UDMR and the PUNR, the extremist nationalism of the Greater Romania Party or the perverse nationalism of the PDSR, their connections with the CSAT, SRI and (even) the Ministry of Foreign Affairs (MAE), had a hard time piercing the thick shroud surrounding the public perception of these issues. Multiculturalism, the logic of ethnopolitical relations, autonomy and the special status, were exotic topics in the early nineties. Authors working within universities and the Foreign Affairs Ministry failed to deliver, in the first part of the 1990s, something more adequate than dim-witted theses such as “the theory that international standards are minimal is dangerous”. The representative of an anemic Center for the Study of Minorities created under the aegis of the Romanian Academy in 1991 argued during a meeting held in 1995 in Braşov (and also attended by then-President Iliescu) that “there’s no such thing as national minorities.”¹⁵⁵ The notion, she said, had no conceptual legitimacy. In other words, she was contesting her own research subject.

Transylvanian panelists were, in this respect at least, one step above the level at which these debates were carried out nationally. As for the Hungarians, some of whom had been trained in minority issues by the UDMR itself, they were mostly talking among themselves or with their Budapest counterparts.

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The first journal that announced the emergence of the Romanian Helsinki Committee was ... the *New York Times* (January 6, 1990).¹⁵⁶ Together with several

¹⁵⁵ “The Romanian-Hungarian Citizens’ Forum” was organized by the Association for Romanian-Hungarian Friendship in Pecs and its Braşov branch, together with the Pro-Democracy Association, between October 7-9, 1995. The first Forum had been held in 1993 in Pecs. Although mainly focused on “civil” involvement, the political side of the Forum had never been unimportant. The visit of President Ion Iliescu was announced on the evening of October 7. Iliescu did come, so the complex security measures were tightened to indecent levels.

¹⁵⁶ Celestine Bohlen, “Ex-Dissidents Will Monitor Bucharest on Rights”, *New York Times*, Saturday, January 6, 1990.

friends,¹⁵⁷ I contacted the Helsinki Watch organization. They were interested in supporting the establishment of a similar organization and visited the country. I had also been contacted and helped by representatives of the League for the Defense of Human Rights in Paris, especially by two Romanian exiles living in the French capital, Mihnea Berindei and Sanda Stolojan.

The Committee became a legal entity in April 1990 under the name of “The Association for the Defense of Human Rights in Romania – The Helsinki Committee” (APADOR-CH). By that time it had already launched several investigations.¹⁵⁸ But the Committee really evolved after several competent individuals joined in the fall of 1990, among them most notably Renate Weber¹⁵⁹ and Manuela Ștefănescu.¹⁶⁰ By 1991, the Committee had already accomplished several spectacular feats: it had helped block anti-democratic bills, had elaborated alternative public policies and had been involved in successful lobbying.

References to national minorities had been frequent as a part of our activities throughout the 1990-92 period. But they were limited to what one would expect from civic militants: fairness but not refinement. However, it had already become obvious that no substantial progress was possible in the absence of an in-depth study of the Hungarian conception of the rights of national minorities, and of the Hungarian minority in particular. When this realization could no longer be avoided, I discovered specialized literature on national minorities for the first time. My first research topic dealt with the following question: “are the collective rights of national minorities human rights?” My solution to the problem – “an essentialist interpretation of a functional criterion”¹⁶¹ – is not something one needs to negotiate with the public opinion. But the answer was in the positive and it was enough to make me acknowledge, from within as

¹⁵⁷ One year later only a few of them were still there. Among them, Radu Filipescu, whom we had invited to be co-president.

¹⁵⁸ First and foremost on the file of Gheorghe Ursu.

¹⁵⁹ Renate Weber has been the most competent president of the Romanian Helsinki Committee. She taught us how to defend the substance of human rights against the procedures. She was the co-author of several studies that could be regarded as having established a doctrine of minority rights in Romania. In 1997, she was appointed president of the Open Society Foundation, to which she has ever since dedicated her efforts. But she has stayed in touch with research and theory and she has authored important papers on women’s issues.

¹⁶⁰ She specialized in monitoring elections and police abuse.

¹⁶¹ Gabriel Andreescu, “Depturile minorităților: drepturi ale omului?”, *RRDO*, [xxx], pp. 15-23.

it were and not only from others' views, that collective rights do make sense and that they are worth fighting for.

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Looking back at the 1993 APADOR-CH Report it is now apparent that by that time the machine was already humming at full capacity. The group of people working with the Committee had been enlarged and substantial financing had been secured. In 1993, the Committee initiated a "Statement for Transparency" signed by NGOs and associations with over 2 million members. A lobbying campaign on the issue targeted the Parliament. Representatives of all parliamentary parties, US lobbying experts and civil society leaders attended the March conference on transparency. Back then, bills debated in the Parliament would not be made public, so two APADOR-CH members were constantly present at the sessions of the two houses.¹⁶² The bills that had any relevance to the issue of human rights were analyzed – "dissected" may be a better word – and the reports were sent to the Parliament's expert commissions and to party leaders. The Committee would organize round-tables with parliamentarians of all political persuasions. This is, in a nutshell, the treatment we gave the bill amending the law on public demonstrations;¹⁶³ the bill on the Commission for Legal Persons;¹⁶⁴ the establishment of the Special Telecommunications Service; the bill amending the Criminal Law and of the Rules of Criminal Procedure; the bill on the protection of state secrets. With the exception of the Special Telecommunications Service affair, APADOR's actions were successful. That is to say, its involvement in the blocking of several laws which in retrospect seem terrifyingly bad mattered a lot.

In 1993, the Committee had a program of providing free legal assistance to those with relevant cases, conducted several investigations designed to involve lawyers in a

¹⁶² Marian Panu and Mona Nicoară.

¹⁶³ Which contained absurd phrases such as: "public gatherings are considered armed if at least two participants are carrying hidden or visible weapons, or any other object, whether hidden or visible, which may be used as a weapon or for other violent purposes, or explosives or highly flammable materials."

¹⁶⁴ The Commission would have guaranteed "the state's right to survey and control all legal persons of private law."

program of assistance for Roma, investigated police arrests and commenced a program that has ever since been at the forefront of its human rights activities: police abuses. It provided assistance to refugees (in Romania, but also to Romanians abroad) and was actively involved in the drafting of refugee legislation. It provided the first and perhaps the most objective analysis of the Tiraspol trial,¹⁶⁵ the one that self-styled “patriots” would later seize and feed on. It also worked on individual cases, some of which were notorious, such as those of Marie-Jeanne Eugenia Curelescu,¹⁶⁶ Alexandru Tătulea,¹⁶⁷ or Galați journalist Andrei Zenopol.¹⁶⁸ Two other important initiatives, the APADOR-CH library and the *Romanian Human Rights Review*, took shape the same year.

The 1993 Report also mentions investigations of attacks against Roma – in the Apa village, Satu Mare county, and the ubiquitous Hărădeni case. For the first time, there was also a program on national and ethnic minorities.

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In 1993 we started a serious debate with the UDMR on the minority rights conceptions that the Alliance was advocating. Some of the concepts even became a topic of international debate.¹⁶⁹ The real turning point came in 1994, as the UDMR executive body and the Pro-Europe League (as co-financer of the meeting through its Intercultural Center program) invited human rights activists and theorists at the Tușnad Baths. The panelists included notorious names such as Miklós Bakk, Sándor Balász, Ana-Maria Biró, Barna Bodó, Péter Eckstein-Kovács, Ernő Fábián, István Horváth, Gábor Kolumbán, György Nagy. “We” (Smaranda Enache, Renate Weber, Valentin Stan and I) were also there. For two days we looked at the “programmatically

¹⁶⁵ The credit for this goes to Manuela Ștefănescu, who went as far as one could go. She also distanced herself from the attempts to capitalize on the Ilie Ilașcu (now a member of the PRM) case.

¹⁶⁶ She was detained at a police precinct and raped by the policeman on duty; she later gave birth to a baby.

¹⁶⁷ Tătulea was beaten and then shot by a policeman because he did not have his ID on him. He miraculously survived the brutal attack.

¹⁶⁸ An arrest warrant was issued on Zenopol’s name two years (!) after his alleged crime (he was absurdly accused of influence peddling). Two policemen grabbed him as he left his apartment, tied him up to a metal pipe, and beat him up until the police van arrived.

¹⁶⁹ See Bela Markó’s article in *Uncaptive Minds* and my reply, Gabriel Andreescu, “The Minority Question. A Few Observations”, *Uncaptive Minds*, Vol. 8, No. 1, 1995, pp. 89-95.

important” documents (the label came out of UDMR’s press office): the Memorandum addressed to the Council of Europe, and the bill on national minorities and autonomous communities.

Back in Bucharest, I suggested to Renate that we write a larger study on the bill. Neither of us actually had, at the time, an understanding of what would eventually come out of this project. We could use the aegis of the Human Rights Center (CDO) which provided a good opportunity for research. We also decided to involve Valentin Stan, a historian who had had a short adventure with diplomacy.¹⁷⁰ He had tackled the national minority issue, mastered an important quantity of historical information and, most of all, had a proclivity for national interest questions due to his training as a Foreign Affairs officer.¹⁷¹ We considered the latter perspective to be essential in the context, especially as the minority issue is also an issue of international politics and hence governed by a set of documents in which the “state’s eye view” was prevalent. As minority rights militants, Renate and I were less careful about the other side of the coin. Stability and global interests had to be considered, nevertheless, in any attempt to come to terms with the question of national minorities. Our chief preoccupation was minority life, and knowledge of this field is rarely perfectly neutral. It is knowledge “for something”,¹⁷² and the meaning of objectivity is hardwired in the available instruments.

The efforts of parceling out common ground for the three of us and especially to fend off what we saw as the exaggerated interpretation of “reasons of state” which Valentin was advocating became an excellent exercise. The experience itself was quite bumpy, but it benefited Renate and me tremendously – we came to understand “from within” the kind of argument or subterfuge that representatives of the Romanian state were often indulging.

Three months after we started our project, “The UDMR Conception on the Rights of National Minorities” was published under the sponsorship of the Human Rights Center.¹⁷³ An additional three month later, we published, based on the findings

¹⁷⁰ I recounted the story of how we met Valentin Stan in my book *Solidaritatea alergătorilor de cursă lungă*, Iași: Polirom, 1998.

¹⁷¹ [under what circumstances]

¹⁷² Which is not, of course, the same with being subjective or partisan.

¹⁷³ In Romanian and English.

of the study, a national minorities bill – the only such “offer” produced by nonpartisan Romanian authors.

20. THE STUDY. GYULA

Our study on the “UDMR Conception on the Rights of National Minorities” dealt with the Alliance’s Bill by looking at three categories of rights:

- (a) rights established by international standards;
- (b) rights or means of exercising rights that go beyond international standards (considered as minimal standards) and which may have correspondents in the lives of minorities in other regions though not in this country;
- (c) rights that find no support in international standards (e.g., the right to an autonomous community, the self-government of autonomous communities, personal, local and regional autonomy of the minorities, minorities or autonomous communities as subjects of political and public law).

The study argued that the first category of rights needs to be acknowledged. It looked at rights that were part of the second category and in some cases considered them appropriate (a Bolyai University in Cluj, enlarging assistance for the use of the mother tongue in courts, the use of the mother tongue in the local administration in localities with a minority population of at least 10 percent), while in other cases it expressed skepticism (e.g., the introduction of quota, or of a limited veto right). Most importantly, it was very critical of concepts that belonged in the third category (c). The latter were a key part of the Hungarian bill and, as such, of UDMR’s conception of minority rights.

The arguments were lined up systematically, even though they also included some rather decorous references to a 1930 consultative report of the Permanent Court of Justice in the Hague, an Estonian law of 1925, or an “essentialist interpretation of the functional criterion” which legitimized (some) collective rights.

The most substantial part of the study focused on a critical approach to the concepts employed in the bill. In fact, “criticism” is an euphemism. The study simply denied that such concepts were appropriate in the context: “The fundamental shortcomings of the bill on national minorities and autonomous communities stem from the text’s use of concepts which have relatively a well-established meaning in

international documents or in the specialized legal and political literature, and such meaning is different from the one advanced by the UDMR. As a consequence, associating the concept of ‘internal self-determination of the autonomous community’ with the notion of a ‘political subject’ or a ‘subject of public law’ may generate, as explained above, confusions that would harm international relations and the mechanisms safeguarding the sovereignty of the Romanian state.”¹⁷⁴

Our reference to “mechanisms safeguarding the sovereignty of the Romanian state” targeted not contingent political will but the very legitimacy of the concepts in question. We had split the work among ourselves and then we cross-examined each other’s contribution and assessed the whole work. The critical part, written by Valentin Stan, seemed (to me) a little overblown. He seemed a little too sure of himself in asserting incompatibilities and impossibilities. Those who are familiar with mathematics and the exact sciences are aware that impossibilities are tough to prove. As an analytical philosopher once noted, an impossibility indicates that something is poorly thought up. Was UDMR’s conception, as reflected in the bill, really a menace to Romanian sovereignty? It is difficult to master an argument that uses such ill-defined concepts. But we finalized the study without my having made a convincing case for my suspicions.

The study was published bilingually – an English translation was obviously necessary in view of our efforts to attract international notice – as a volume printed on expensive paper, under an sponsorship that announced high standards. It was delightful to be able to offer it to others. We sent it to the people on our long list of partners, but also to embassies and institutions that had asked for our position. The Hungarians used it in some of their subsequent analyses and statements. The material brought us closer to UDMR’s own analysts, with one of whom (Miklós Bakk) we debated the issues polemically but fruitfully.¹⁷⁵

We were not the only ones eager to publicize our study. The Council for National Minorities was surprisingly active. In 1993, we had been accepted as observers

¹⁷⁴ Gabriel Andreescu, Valentin Stan, Renate Weber, *Concepția UDMR privind drepturile minorităților naționale*, Centrul pentru Drepturile Omului, București, 1994, pp. 35-36.

¹⁷⁵ See the “Debate: UDMR’s Conception on the Rights of National Minorities”, *RRDO*, No. 6-7, 1994, pp. 86-106, and Miklós Bakk’s substantial argument.

at the meetings of this body created under the authority of the Romanian Government's General Secretariat. The Council disseminated hundreds of copies of our study, and Ivan Trușter¹⁷⁶ would call us now and then and ask us "for a couple more packages, if possible".

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The study was slowly assuming a role the magnitude of which we had not anticipated. On May 12-13, 1995, the three of us were invited to Gyula (in the eastern part of Hungary), a locality inhabited by a relatively large number of Romanians. The theme of the seminar was appropriate considering the place where it was being held: "The National State and Ethnic Autonomy". It had been initiated by the FIDESZ's Pro Minoritate Foundation, with Friedrich Naumann as the funding organization and the Pro-Europe League as a co-host. The panelists from Hungary belonged to the higher ranks: Zsolt Németh, the FIDESZ vice-president; Gáspár Biró, a very well-known minority expert and later a good friend; Gergely Pröhle, president of the Hungarian Naumann branch; and Atilla Varga from the Romanian side who would later represent the UDMR in many of debates on the bill. Smaranda Enache of the Pro-Europe League was there as well. The seminar focused on our study. We were surprised to find out that the study had been translated in Hungarian and published in the foundation's journal. Then the FIDESZ vice-president stated that it was the most important Romanian text on minorities' issues after 1940. Was he exaggeratedly polite? Was he ironical? The doubts lingered for a while. I discovered that it had not been an irony when, somewhat later, I received the Pro Minoritate prize awarded by the Hungarian state.

Later on, I co-authored with Renate Weber a sequel to the first study, entitled "The Evolution of UDMR's Conception on the Rights of National Minorities". We wanted to correct some of the flaws of the previous study. I have come now to believe that the study was the starting point in a series of events that changed the nature of political debates in Romania and, implicitly, the framework of negotiations between

¹⁷⁶ The Council's President and the right hand of Viorel Hrebenciuc, then Secretary General of the Romanian Government.

Romania and Hungary. The *Conception* was at the source of a series of theoretical research projects that had, as a practical application, the issues raised by the minorities in this country. Without a minority doctrine developed “as we moved along” it would have been difficult to find an answer the relentless provocations that surfaced in the years to come.

21. A LAW ON NATIONAL MINORITIES

Success had wiped away our timidity. We wanted to bridge the gaps of a future program reconciling Romanians' obsessions with Hungarians' expectations. In order to come up with something both effective and comprehensive, we had to start with a bill on national minorities. It seemed that we were moving on uncharted grounds, but we felt that everything was a matter of time and means. Our analysis of UDMR's own bill had marked out the course to be followed: securing the rights demanded by Hungarians through a system of special measures, rather than through the system of autonomies. Once again, we divided the labor among the three of us. Renate took care of the most important part of the project. I dealt with the question of how to safeguard the right to a Hungarian university without generating a wave of similar requests from minorities which did not qualify (i.e., the small minorities and the Roma). The solution was to treat the university issue as a right to the "preservation of one's traditions, including institutions developed over time, whether educational or otherwise".¹⁷⁷ This principle clearly covered the Bolyai University.

Valentin was in charge of information concerning the size and percentage of minorities that would legitimize the use of the mother tongue in local administration. Some available precedents, such as Decree no. 1 of January 1919 of the Guiding Council of Transylvania, some Hungarian governmental decrees issued in 1919 and 1923, and a Czechoslovakian law of 1920, suggested something around 20 percent. This was, as a matter of fact, an intermediate figure between the one proposed by the Hungarians (10 percent), and that advanced by the Council for National Minorities (25 percent).¹⁷⁸ So we decided 20 percent would be reasonable. It turned out to be a wise choice. Twenty percent was the figure stipulated in the Local Administration Act adopted a few years later.

We published the bill in a supplement of the *Romanian Human Rights Review* (RRDO) titled *Legislation in Transition*, together with a critical analysis of the project

¹⁷⁷ Gabriel Andreescu, Valentin Stan, Renate Weber, "Un proiect de lege privind minoritățile naționale elaborat de către Centrul pentru Drepturile Omului", în Lucian Mihai, ed., *Legislația în tranziție*, București, p. 104.

¹⁷⁸ The major stake was obviously the city of Cluj, inhabited by approximately 23 percent Hungarians.

which the Council for National Minorities had offered as a response to the Hungarian initiative. We disseminated it, we translated it into English and so on – the strategy we had grown so accustomed to. Yet, it would have been important to use the project as an actual legislative initiative. This time, however, the UDMR parliament members were of no assistance. The UDMR would never give up on its own project, in spite of the fact that, in practical terms, it had constantly pursued a legislation based on a system of special measures. As a matter of fact, in our discussions the Hungarian leadership ruled out the possibility of supporting any initiative other than their own.

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At the time, it was obvious that the PDSR was the only power that could change the conflictual approach promoted by the nationalist coalition. For a while, I believed that rational arguments could penetrate the these old wolves's den. I therefore wrote a text in which I pointed out why I thought it was important to have a law on national minorities, and I argued that a reasonable offer is already available. I slapped a neutral logo (that of the Human Rights Centre) on the text and sent it, through Mr. Trușter, to the PDSR leadership. While I actually believed those arguments made sense, I tried to render any failure to consider them as more consequential than it might have actually been. I wanted to force the addressees to also consider this possibility. My arguments point to many of the problems that minority issues raised at the time, so I reprint them below in their original form:

“1) Internal stability and the state of the Hungarian minority

There are two main conditions that have to be met in order to make a **long term** solution to Hungarian minority problem possible:

- (a) guaranteeing the rights that the Hungarian minority theoretically enjoyed, as a minority, until 1990;
- (b) re-establishing the institution that serves as a symbol of the Hungarian community in Romania, the Bolyai University.

2) Principles for the resolution of the Romanian-Hungarian conflict

(a) the resolution should be conceived of within the existing institutional framework;

(b) it should involve a law on national minorities complementing the Constitution, rather than violating it or other existing laws.

3) The importance of a law on national minorities as an alternative to the strategy of autonomies

To safeguard the rights of national minorities so as to enable them to feel comfortable is a matter of civilized behavior and internal stability. Which are the most convenient ways to achieve this goal? This is not just a question of law-making, but also one of political negotiation between the parties involved. The Hungarian minority has advanced several demands concerning the use of language in the justice system, administration, education, the management of Hungarian cultural institutions etc. In order to promote these proposals, the Hungarian community initiated in 1993 a bill on national minorities. This bill has yet to be debated by the legislative. The project involves constitutional changes. In the opinion of these authors, under the current circumstances this strategy of promoting the rights of the Hungarian minority is ill-advised. On the other hand, it is crucial that the negotiating partners of the Hungarian minority consider the following points:

(a) Autonomies are acknowledged worldwide and shall sooner or later be seen in a positive light.

The requests advanced by the UDMR in its bill are neither absurd nor illegitimate. Several European regions are accustomed to various types of autonomies and regions enjoying a special status. Furthermore, international experts believe that autonomy is one of the most effective means of solving the problems of minorities. As Francesco Capotorti noted in his Report surveying 46 individual countries, in those countries which acknowledge ethnic and linguistic groups as entities with a special status political life is pluralist. In some of these countries, it is believed that local government or autonomy for a particular region would be a more effective means of

defending the specificity and rights of targeted groups.¹⁷⁹ Even though the states in question do not recognize a “right to autonomy”, the important state actors reacted positively to solutions such as autonomies and even federalization as means of preventing inner tensions and violence. As an example, the OSCE and the Council of Europe favored the new status of the Transdniestrian region. There are many other examples which illustrate these international bodies’ position on autonomies: the Document of the Copenhagen Meeting of the Conference on the Human Dimension, CSCE, June 29, 1990 – “[quote]”¹⁸⁰. Resolution 232 (1992) concerning autonomy, minorities, nationalism and the European Union, adopted by the Permanent Conference of Local and Regional Authorities of Europe considers that it is necessary that states should safeguard democracy by “[quote]”.¹⁸¹

(b) The pressure for autonomy will decrease as soon as adequate alternative solutions are introduced.

If no positive answer is provided to UDMR’s requests, certain rights have to be safeguarded for the Hungarian minority so as to make it feel comfortable and safe. This is only possible through a general system of protection. Under the current circumstances, it implies a law on national minorities. Should such a law fail to address the specific concerns of the Hungarians, it would be unable to compete with the program of autonomies. In such a case, the law would merely reinforce the feeling that autonomies are the only alternative.

4) Factors favoring conflict

(a) Below are some results of a research concerning the development of conflicts opposing the minorities to their state:

- Communities making up a society tend to separate whenever they are persuaded that self-rule will result in more justice and a higher quality of life than the rule of the

¹⁷⁹ Francesco Capotorti, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities* (1977), Center for Human Rights Study Series 5, United Nations, New York, 1991, p. 97.

¹⁸⁰ “Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE”, Copenhagen, June 29, 1990, para. 35, p. 41.

¹⁸¹ “Resolution 232 (1992)”, Standing Conference of Local and Regional Authorities of Europe, 27th session (March 17-19, 1992), II, 4, p. 3.

unitary state.¹⁸² In such a case, the stronger the national identity, the lower the (subjective) threshold of inequality and disadvantage that engenders adversity.

- The trend favoring separation and violence is further compounded by a growing distance between expectations and accomplishments, as well as by the association of frustration and group pride.

(b) The development of internal conflicts depends, to a considerable degree, on the presence or absence of external factors. It has been shown that foreign involvement completely changes the domestic actors' opportunities for action. Should the conflict with the Hungarian community in Romania reach a peak, Hungary would certainly interfere. In such a case, the Romanian state would find itself in a much worse position than the one it is currently enjoying.

(c) The past 6 years alienated the Hungarian minority. It is pointless to debate today whether such feelings of alienation are motivated or not. Irrespective of the answer to this last question, alienation is a ticking bomb, and we do not know how its timer is set.

5) A law on national minorities may be introduced in a politically convenient way

(a) it would send a positive signal to the international community;

(b) it may involve a compromise solution between the nationalists, on the one hand, and the Hungarians, on the other:

(i) the former will appreciate the political will of advancing a national strategy and leaving autonomies behind;

(ii) the latter will value the compromise as a sign of reconciliation, political maturity, and willingness to replace confrontation with cooperation.”

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Of course, that was precisely what the PDSR confrontation-mongers wanted to avoid: a compromise with the Hungarian Alliance. I did not get an answer, in spite of the fact that in the past the PDSR leadership had at least been polite enough to write back. Therefore, toward the end of 1994, Renate, Valentin and I arranged a meeting

¹⁸² Alexis Heraclides, *The Self-determination of Minorities in International Politics*, London: Frank Cass, 1991, p. 16.

with our friends in the Civic Alliance Party (PAC). We asked them to review our bill and suggested that it should compete with the other two bills on the House's agenda (that of the UDMR, and that of the Council for National Minorities). I wrote to Vasile Popovici to explain in detail why such an initiative was really worth it. He came by, took the text, and reacted enthusiastically. He returned with the news: PAC was ready to take up the project, provided we accepted that it be advanced in their own name. We agreed, especially since we had no particular desire to put our names on the law. "There will be some small changes", he announced. He was to return later with the final version.

We soon after learned that PAC was preparing to submit the project to the Parliament. Then Vasile Popovici arrived with "their" version. "Any suggestions?", he asked. We took the copies and gave them a read. The revised version was a catastrophe. The party's leadership had changed terms and concepts in ways which clearly indicated they were not up to the task legally and scholarly. Some rights were altogether obliterated. I could picture before my eyes the renowned literary critic and PAC president Nicolae Manolescu operating changes on the text.

We retorted with our own suggestions and observations, but PAC submitted their own version to the House of Deputies. On March 11, 1995, I sent an outraged letter to Vasile Popovici. It may provide an insight into the communication gap opening between a Romanian think-tank and a group of individuals involved in real-world politics: "While some remarks could be accepted, while several of the changes operated by the PAC could be interpreted as attempts to accommodate the law to the party's particular political outlook, the rest overtly contradicts the spirit of the bill elaborated by the Center for Human Rights. Furthermore, it runs counter to the bill's objectives. What is left is merely a caricature of the original. It endangers the very goal which the bill was meant to accomplish. Some of your changes indicate that the party has used the text in order to advance wrong ideas."

I went on: "Under such circumstances, I fear that the Center for Human Rights has no other option but to publicly announce that its bill on national minorities has been disfigured. I am sorry if this seems too severe a measure, but we believe it unavoidable.

I am also sorry to add that the way in which you have addressed the matter [of promoting a law on national minorities] is infatuated, irresponsible, and lays bare the mentality of politicians who believe that a seat in the Parliament automatically turns them into informed, intelligent, and competent policy-makers.”

We were genuinely shocked at the way the PAC leadership had toyed with law-making: “Neither of my colleagues is willing to waste their time and effort just in order to engender stillborn projects, even though they may someday become stillborn bills. Here [at the Center for Human Rights] we have ... the resources we need. I mention this not because I believe such resources should be used by politicians in the same way in which they have been used in the recent past, when scholarly work was a tool in the hands of the Communist Party. On the contrary, I believe that political options should be subjected to the exigencies of expertise.”

The national minorities bills have never been debated in the Parliament. The UDMR chose the wiser path of special laws. In 1999 and in 2001, two basic legal norms concerning education and local administration were finalized. In the meantime, discrimination laws had also been adopted.¹⁸³ Hence, we are now facing a new question: is there any point in adopting a comprehensive law on national minorities? Would it serve its purpose better than the legislation already in place?

A look back at 1995 suggests that our old bill would now be completely obsolete. In addressing the Hungarian problem, we missed issues that today seem unavoidable and even central. One of these issues refers to the recognition of minorities. After the 2000 elections, several less significant minority groups secured Parliament seats. How far should the proliferation of communities enjoying seats in the Parliament go? To answer this, we need an explicit definition of a national minority. We have to look for conditions which any minority group seeking parliamentary representation should have to meet.

Another relevant issue is that of ethno-cultural groups. There are about 2,000 Kurds in Romania today, most of them political refugees. They expressed their desire for state-sponsored schools in their mother tongue. Should the state undertake this

¹⁸³ Ordinance No. 137/1999.