

MINORITY PROTECTION IN AN ERA OF ETHNO-NATIONALISM: ANALYSING DIVERGING REACTIONS TO HUNGARIAN KIN-STATE POLICIES

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ABSTRACT

Europe has recently seen a development towards declining tolerance of pluralism and multiculturalism, putting ethnic and national minorities in an increasingly precarious position. In this context, intensified institutional and legal relationships between ethnic minorities and their external ‘motherland’ has attracted growing attention among policy-makers and academics. Referred to as ‘kin-state politics’, this has proved to be a controversial and largely polarising phenomenon raising important questions relating to identification, belonging and the issues the nation-state model face in addressing ethno-national ties across borders, especially pertinent in Central and Eastern Europe (CEE). This research sets out to answer what accounts for the diverging reactions to two Hungarian kin-state policies; the 2001 ‘Status Law’ and the 2010 Citizenship Amendment. Since the former was met with intense criticism while the latter faced only minor disapproval the diverging reactions are analysed through a comparison of domestic, regional and international responses to these two laws extending benefits to ethnic Hungarians abroad. The study finds that the vague international norms guiding kin-state engagement are regularly politicised within domestic electoral competition for nationalist purposes. This instrumentalisation is commonly to the disadvantage of the minorities these policies claim to protect. Therefore, in order to guarantee efficient and high-quality minority rights protection in an integrated Europe, the normative role of the kin-state in ensuring the continued well-being of its minorities needs to be clarified.

INTRODUCTION

The imagined community that constitutes the Hungarian nation is, like many other national groups in Europe, divided across borders into several nation-states. In particular, there are sizable Hungarian minority communities present in its neighbouring countries in the Carpathian basin. The two largest Hungarian minority populations reside in Romania and Slovakia, with approximately 1.2 million and 460,000 ethnic Hungarian residents each, respectively representing 6 and 10% of the Romanian and Slovak citizenry (Kovács, 2020). These external minority communities have significant political and nationalist value in Hungary, which the emerging right-wing Fidesz party discovered during its first term in government in 1998-2002. In 2001 it introduced the so-called ‘Status Law’ which extended certain advantages to ethnic Hungarian minorities across the border, causing a great controversy with its neighbours and subsequently the international community. Furthermore, during its second term commencing in 2010, the first law that Fidesz passed was an amendment to the 1993 Citizenship Law which effectively removed the residency requirement for naturalisation, thus enabling non-resident ethnic Hungarians abroad to become Hungarian citizens. Contrastingly, this citizenship extension did not evoke similar opposition from neighbouring states or international organisations. Therefore, in this study I ask what factors account for these diverging reactions.

The 2001 Status Law and the 2010 Citizenship Amendment both fall under the category of ‘kin-state politics’. This refers to the nationalist strategy intending to institutionalise and mobilise ethnic kinship ties across borders between a national minority and its ‘motherland’ (Liebich, 2019). This is most commonly pursued through policies passed in the kin-state which are directed at their cross-border minorities, in this case Hungary

and its ethnic minorities in surrounding states. The emergence of kin-state engagement policies should be viewed in the context of Europe’s imperial history, leading to the ‘multi-national patchwork’ evident today (Smith, 2002). Since the fall of the Habsburg, Russian and Ottoman empires following the First World War, and the disintegration of the last European multinational states in the 1990s, the nation-state model has come to dominate political organising in Europe. However, because of its imperial legacy, state and national boundaries rarely overlap in CEE, leading to the prevalence of significant minority communities and hence difficulties in the formation of pure nation-states. It is in this context that the study of kin-state politics emerged, attracting growing attention among policymakers and academics in the last two decades, proving to be a controversial and largely polarising phenomenon.

In the case of Hungary, its kin-state activism has its origins in the 1920 Treaty of Trianon which formally ended the First World War between the Kingdom of Hungary and the Allies. With the conclusion of this treaty, borders were redrawn and Hungary lost two-thirds of its territory and consequently one-third of its citizens to neighbouring states. Although unsuccessful, Hungary attempted to retake the lost territories by allying with Nazi Germany in the Second World War. Subsequently, during the communist era the issue of Hungarian minority communities abroad was suppressed in favour of the official ideology of socialist internationalism. Therefore, it was not until the early 1990s that it resurfaced on the domestic political agenda with an infamous remark by the Hungarian Prime Minister (PM) József Antall. In 1990, Antall declared himself the PM ‘in spirit’ of 15 million Hungarians, far exceeding Hungary’s 10 million citizens. This statement was controversial with neighbours since it was interpreted as Hungary making a claim on the cross-border minority communities that were lost with the Treaty of Trianon in 1920.

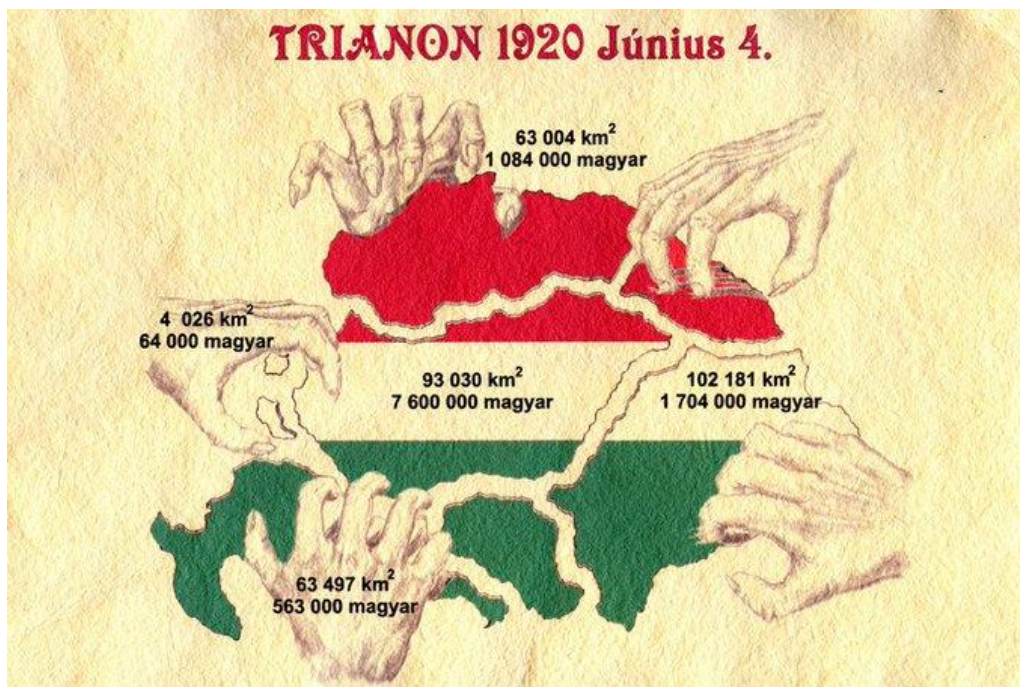


Figure 1: Poster (1921), artist unknown. The image illustrates Greater Hungary being torn apart by five hands into its post-Trianon borders. The image was controversially re-used in 2019 by Hungarian State Secretary János Árpád Potápi on the government website ‘About Hungary’, and posted on its official twitter account. Taken from: hungarianspectrum.org

To this day, the 1920 dismemberment of the Hungarian nation is a focal point of the Magyar collective memory, underlined by a 2020 opinion poll showing that 85% of Hungarians still consider the Treaty of Trianon to be their country’s biggest national tragedy, with 77% expressing that Hungary has never fully recovered from the loss (Latal et al, 2020). Hungary, along with most regional states, incorporated a so-called ‘responsibility clause’ in its new post-communist constitutions essentially asserting that the kin-state has an obligation to protect and support its kin-minorities abroad. Article 6(3) of the Hungarian 1989 constitution declares that “the Republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its borders and shall promote and foster their relations with Hungary”, which was further expanded upon in the newer 2011 constitution (Töttös, 2017). This constitutional provision functioned as the foundational justification for the introduction of the two Hungarian kin-state policies that this article focuses on, the 2001 Status Law and the 2010 Citizenship Amendment.

This study compares and contrasts the domestic, regional and international reactions to the 2001 Status Law and the 2010 Citizenship Amendment aiming to explain why they were received with such varying levels of controversy. First, the two laws will be explained further. Following this, the domestic, regional and international reactions to both legislations will be outlined and contextualised. Then the discussion will ensue, arguing that in the current climate kin-state politics are being politicised and instrumentalised for domestic electoral gain, leaving the minority rights situation it claims to improve unchanged. In the final section, it will be concluded that clarifying the legitimate role of the kin-state in the minority

protection of its kin abroad is critical for the provision of consistent and high-quality support to national minorities in Europe.

HUNGARIAN KIN-STATE POLITICS

The 2001 Status Law and the 2010 Citizenship Amendment

The ‘Act on Hungarians Living in Neighbouring Countries’, commonly referred to as the Status Law, was passed in the Hungarian parliament with a 92% majority on 21 June 2001. The law set out to extend various advantages to Hungarian kin-minorities in its neighbouring countries in the Carpathian basin, such as subsidised travel and healthcare, cultural and educational benefits, and to provide ethnic identity cards that entitled the holder privileged access to the Hungarian labour market and social-welfare system. The law’s passing led to a conflict between Hungary and its neighbours, in particular with Romania and Slovakia who argued that the law infringed on their sovereignty and that it had extraterritorial effects. The Romanian PM requested that the Status Law’s compatibility with European standards and principles of international law would be examined by the Council of Europe’s (CoE) ‘Venice Commission’, resulting in the release of a report on the preferential treatment of national minorities by their kin-state (Venice Commission, 2001).

On 26 May 2010, the Hungarian National Assembly passed an amendment to the 1993 Act on Hungarian Citizenship with a 98% majority, effectively removing the residency requirement in the naturalisation procedure, hence allowing for ethnic Hungarians abroad to apply for citizenship while remaining in

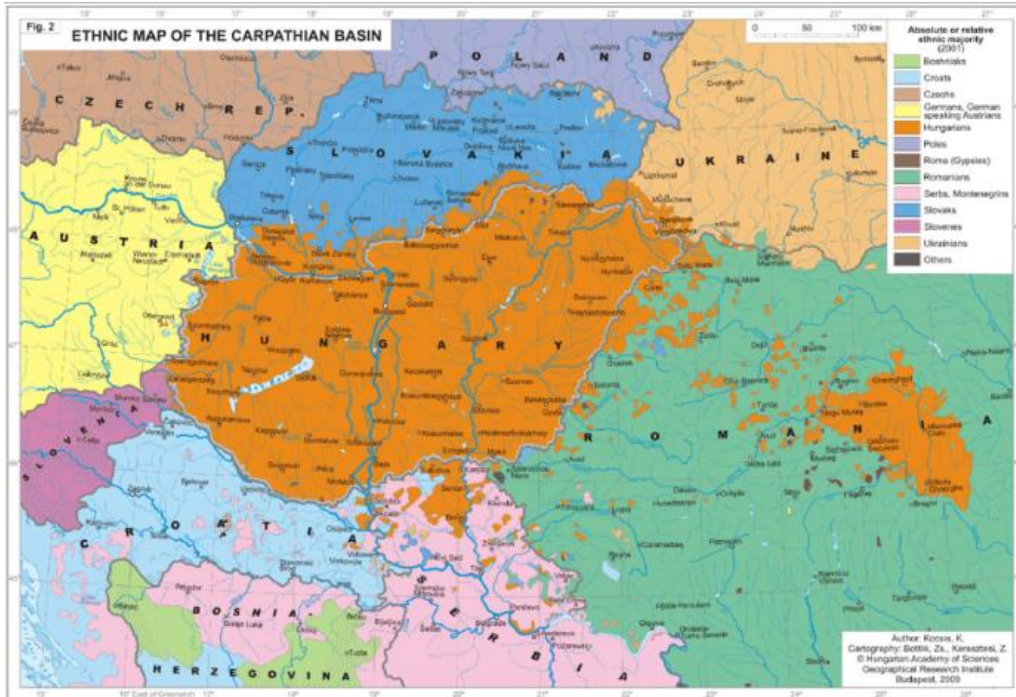


Figure 2: Ethnic map of the Carpathian basin in 2001. Ethnic Hungarians (orange) reside in significant clusters outside of the Hungarian state, most prevalently around its borders and in Transylvania. Taken from Kocsis et al., 2009.

their host-states. In contrast to the Status Law aftermath however, this policy attracted little criticism domestically, regionally and internationally, with the exception of an ensuing conflict with Slovakia. Considering that the Citizenship Amendment is essentially an extension of the Status Law benefits, and that the Status Law was largely criticised for being a type of ‘semi-citizenship’ or ‘quasi-citizenship’ it is rather surprising that the extension of actual citizenship did not evoke similar reactions. To answer what accounts for these diverging reactions, next I outline the domestic, regional and international reactions to the Status Law and the Citizenship Amendment to highlight the discrepancies.

Domestic reactions

The Hungarian domestic opposition’s reactions to the Status Law were relatively muted, and by the time of the Citizenship Amendment, basically non-existing. This was partly due to the underlying consensus that existed across the political spectrum that the Hungarian kin-minorities should obtain some protection and support from its kin-state, which was also enshrined in the post-communist constitution. It was also, however, partly due to electoral competition and the domestic-political circumstances that surrounded the laws’ implementations.

Fidesz’ main opposition party, the Hungarian Socialist Party (MSZP), was in favour of a benefit law like the 2001 Status Law while remaining critical of some aspects of its implementation. For instance, the MSZP disapproved of the finalised law for not prioritising good neighbourly relations and for risking objection from European institutions, hence jeopardising Hungary’s planned 2004 EU accession (Fowler, 2002; Batory, 2010). This domestic political disagreement regarding the relative importance of EU membership, good neighbourly relations and

support of Hungarians abroad echoed similar inter-party debates taking place in the 1990s. Therefore, there was strong support for kin-state engagement in the Hungarian socialist opposition although some reservations existed regarding the diplomatic and political costs these could be pursued for. Furthermore, since the MSZP and their liberal coalition partner the Alliance of Free Democrats (SZDSZ) had put European integration as a top priority during their 1994-1998 term in office, Fidesz began to utilise kin-state politics as an ideological resource to distinguish themselves from their opposition (Waterbury, 2010). Thus, when the external organisation the World Federation of Hungarians (WFH) initiated a referendum on the extension of non-resident citizenship to Hungarian kin across the border in 2004, Fidesz sided with the proposal while the MSZP-SZDSZ government campaigned against it. Although the referendum results were declared invalid due to the low voter turnout, the campaigning still adversely affected the socialist-liberal coalition’s relations with the Hungarian communities abroad, benefitting Fidesz in its quest towards branding themselves as patriotic and nationalist while discrediting the opposition as anti-nationalist.

By 2010 Fidesz had effectively gained popularity by branding themselves as nationalists, leaving them with a supermajority in the parliament following the 2010 national election. Then, when Fidesz proposed the Citizenship Amendment the MSZP voted in favour of it although it had opposed it in the 2004 referendum. Since the law would pass with or without its support it is plausible that the socialists were cautious to be labelled anti-nationalist and alienate the new citizens, and potential new voters, even more than they already had during the referendum campaign. Furthermore, it is important to note that although the Hungarian population consistently score high on indications of right-wing extremism such as prejudice, anti-

establishment attitudes and distrust, there was a significant increase in Hungarian adults sympathising with right-wing policies and ideas between 2002-2009 (Kovacs and Tóth, 2013). In addition, the far-right and ultra-nationalist Jobbik party started gaining in popularity in Hungary in the period leading up to the 2010 election, threatening Fidesz' monopolised position as nationalists. This not only makes the timing of Fidesz' introduction of the Citizenship Amendment suitable, but it also constrains the MSZP-SZDSZ opposition in its responses.

Starting with the 2001 Status Law, continuing with the 2004 referendum and culminating with the 2010 Citizenship Amendment, Fidesz enhanced and consolidated its political image as nationalist protectors of the *entire* Hungarian nation,

Table 1: Regional parties and their respective political leanings and support for the policies

Party	Political ideology	Support for Status Law	Support for Citizenship Amendment
Fidesz (Hungary)	National-conservative	Yes	Yes
MSZP (Hungary)	Socialist / social-democratic	Yes	Yes
SZDSZ (Hungary)	Liberal	No	No seats in parliament
Jobbik (Hungary)	Far-right / ultra-nationalist	Party not established	Yes
PDL (Romania)	Liberal-conservative	Stance unclear	Yes (conditionally)
UDMR (Romania)	Centre-right / liberal conservative	Yes	Yes
SMER (Slovakia)	Social-democratic / nationalist	Stance unclear	No
SNS (Slovakia)	Far-right / ultra-nationalist	Stance unclear	No
SMK (Slovakia)	Centre-right / liberal conservative	Yes	Yes (party dissolved shortly after)

forcing the opposition parties to adapt to their new (nationalist) political agenda. Domestically, thus, the tensions between Fidesz and the opposition parties have been negotiating the relative importance of kin-state politics next to European integration and good neighbourly relations, as well as manifesting as an electoral stand-off in nationalist symbolism. The reactions to the laws were therefore relatively muted from

the Hungarian domestic opposition due to the underlying political consensus that Hungarian minorities ought to have some form of support offered from their kin-state, and due to shifts in domestic electoral competition in between the passing of the two laws.

Regional reactions

The regional reactions to the Hungarian kin-state policies differed significantly, where the Status Law caused a lasting conflict between Romania and Slovakia on the one hand, and Hungary on the other. Contrastingly, the Citizenship Amendment led to a row with Slovakia but stirred no such criticism from Romania or other neighbours. Similar to the Hungarian domestic opposition, the reactions from Slovakia and Romania were also dictated by the domestic-political situation and the electoral considerations of each state.

The introduction of the Status Law was loudly opposed by Hungary's neighbouring states, in particular by Slovakia and Romania. The law was mainly criticised for having extraterritorial effects, for being discriminatory against citizens of non-Hungarian descent, for infringing on their sovereignty and for the lack of bilateral consultations prior to its passing. In the run-up to the Status Law's implementation, the largest Hungarian minority parties, the Hungarian Coalition Party (SMK) in Slovakia and the Democratic Union of Hungarians in Romania (UDMR) in Romania, both found themselves as coalition partners in their respective governments. However, both the Slovak and Romanian governments were oversized and hence did not rely on these smaller parties' support to maintain a majority (Bochsler and Szöcsik, 2013). Therefore, neither the SMK or the UDMR were in a strong enough position to dictate their government's reactions to the law's implementation although they were included in the leading coalition.

In 2010, on the other hand, the domestic-political situations of Romania and Slovakia were fundamentally different. The Romanian government raised no concerns with the passing of the Citizenship Amendment, while the Slovak government retaliated by passing a dual citizenship ban for all Slovak citizens voluntarily pursuing a second nationality.

The governing Slovak party Direction - Social Democracy (SMER) was leading a coalition with the ultra-nationalist Slovak National Party (SNS), giving this anti-minority party considerable leverage over the government's official stance. Similar to how Fidesz in Hungary struggled to outmanoeuvre their ultra-nationalist Jobbik, SMER was attempting to assert themselves as patriots appealing to nationalist voters leaning towards SNS by responding with the dual citizenship ban. Likewise, the Romanian government's mild reaction to the Hungarian citizenship law can be explained by domestic politics. Apart from being in a severe economic crisis at the time, similar to SMER the Romanian governing party, the Democratic Liberal Party (PDL), was curbed by one of their coalition partners. In 2010, the UDMR party played a key role in preserving the sitting government's majority in the Romanian parliament (Blokker and Kovács, 2015). UDMR naturally supported the Hungarian proposal, and its chairman had called on voters in Hungary to support the dual citizenship referendum back in 2004. Therefore, both Slovakia and Romania were constrained in their reactions by their domestic-political situations. The Slovak domestic circumstances presented SMER with the opportunity to utilise the controversy for its own nationalist purposes for electoral gain, while the

Romanian PDL-led government found itself in a precarious position where it depended on the domestic Hungarian minority party's support to remain in power.

Additionally, it is important to note that the role of kin-state and host-state are not mutually exclusive which is evident in CEE where most states act as both simultaneously. Romania, Slovakia and Hungary all have significant kin-minorities outside of its own borders while hosting other ethnic minorities within its own state boundaries, directly a consequence from its political historical context of empire and multinationalism. This is another factor contributing to the inconsistency visible in many cases where states oppose kin-state engagement from neighbouring states directed at its own citizenry while pursuing similar policies towards its own kin-minority (Fowler, 2002; Iordachi, 2013).

The regional reactions to the Hungarian kin-state policies were therefore also dictated by domestic electoral competition, demonstrating how the implementation of these policies as well as the reactions to them are frequently politicised.

International reactions

The international reactions to the two Hungarian kin-state policies are in stark contrast with each other. The controversy surrounding the 2001 Status Law with Romania and Slovakia triggered the ensuing report published by the CoE Venice Commission evaluating the European stance on kin-state behaviour, while the 2010 Citizenship Amendment received no such attention. The diverging responses are partly due to the vague and contentious norms emerging in the Venice Commission report and the subsequent Bolzano/Bozen recommendations published in 2008 by the High Commissioner on National Minorities (HCNM) of the Organisation for Security and Co-operation in Europe (OSCE).

By the time of the 2001 Status Law's passing there were no international or European standards related to kin-state behaviour. However, the law triggered the comparative study published by the CoE's Venice Commission later in the year. The report recognises the host-state with the primary responsibility of minority protection but does not condemn kin-state involvement since it acknowledges a legitimate interest of kin-states in their kin-minority. Similarly, the Bolzano/Bozen recommendations published in 2008 by the HCNM of the OSCE built on these conclusions, also acknowledging the legitimacy of kin-state engagement while also emphasising the importance of bilateral consultations and pursuit of good neighbourly relations.

Since the introduction of the 2010 Citizenship Amendment did not lead to any new reports, recommendations or evaluations, these two reports represented the international community's stance on kin-state and kin-minority relations at its passing. Aside from not having any enforcement mechanisms, the norms outlined are often vague and contentious, leaving room for interpretation on what appropriate kin-state behaviour entails. For instance, the Venice Commission acknowledges a legitimate interest by the kin-state in its kin-minority and called minority protection by kin-states a 'positive trend' if it is successful (Venice Commission, 2001). This legitimate role of the kin-state in minority protection efforts is nonetheless not further expanded upon and therefore subject to interpretation. This vagueness provides kin-states like Hungary with international legal principles to back up its policies.

Additionally, there are two paragraphs in the Bolzano/Bozen recommendations that lend some support and legitimacy to Hungary's policies. First, recommendation 11 allow states to take preferred linguistic competencies as well as historic, cultural and familial ties into account when granting citizenship, while noting that good neighbourly relations and territorial sovereignty should be respected. With this recognition of preferential granting of nationality as a legitimate benefit offered by kin-states, Fidesz could back up its decision to extend citizenship with international normative principles (Horváth, 2010). Second, recommendation 15 asks that benefits offered to national minorities residing abroad are non-discriminatory and hence do not target a particular minority while others are neglected (HCNM, 2008). Considering that the Status Law was only aimed at ethnic Hungarians in the Carpathian basin while the Citizenship Amendment allowed for applications from Hungarian minorities anywhere, these criteria seem to have been fulfilled by Hungary.

The lack of new reactions from European institutions or international organisations to the Citizenship Amendment is in stark contrast to the aftermath of the Status Law. The international stance on kin-state behaviour outlined in the Venice Commission report and the Bolzano/Bozen recommendations were at times vague and contentious in its approach, and at times in outright support of continued kin-state engagement. Therefore, the norms that emerged in 2001 in regard to kin-state politics paved the way for the lack of reactions following the introduction of the 2010 Citizenship Amendment. Other contributing factors to this discrepancy is explained by broader regional developments such as the shifting norms in relation to dual citizenship and the rapid regional EU enlargement, which will be further expanded upon in the next section.

DISCUSSION

The inconsistencies in the responses towards the two kin-state policies were further influenced by broader regional developments. First, the normative outlook on dual citizenship had evolved in Europe and elsewhere since the end of the twentieth century. Second, this more positive view of dual nationality was being exploited by kin-states like Hungary in their pursuit of national unity across borders. Third, in between the two laws' implementations the EU significantly expanded into the CEE, altering the regional context and facilitating further kin-state engagement.

Changing attitudes towards dual citizenship

Regarding the politics of dual citizenship, the legal and political norms concerning dual nationality have changed drastically since the nineteenth century. In the nineteenth and the majority of the twentieth century dual citizenship was renounced based on the assumed incompatibility of dual political allegiances and it being regarded as a source of conflict (Pogonyi, 2011). However, this began to change in the 1990s, for instance with the adoption of the 1997 European Convention on Nationality which, in contrast, actively encouraged dual citizenship in some instances. This shift in legal norms within European institutions led to an increased acceptance of dual citizenship as a progressive, positive and post-national practice that devalued previous territorial dimensions of citizenship (Blokker and Kovács, 2015). Moreover, this in combination with the aforementioned vague and non-binding norms on legitimate

kin-state behaviour which emerged from the two European reports left the debate on the legitimacy of kin-state activism largely open for interpretation. As demonstrated, this makes minorities vulnerable to being utilised as electoral resources for making (nationalist) political points, with their minority rights situation remaining stagnant.

Ethno-nationalist or post-national use of dual citizenship?

Furthermore, the way kin-states like Hungary utilise dual citizenship is fundamentally different from how Western 'immigration states' implement it. In immigration states, dual citizenship functions to integrate labour migrants into their country of residence which serves to decouple citizenship from ethnicity. Paradoxically, when kin-states implement similar policies directed at their kin-minority it reinforces the link between citizenship and ethnicity since residency is deemed insignificant and national or ethnic belonging instead constitute the guiding principles (Kovács and Tóth, 2009; Batory, 2010). Therefore, under the cover of what is generally perceived as a postmodern, post-national, and progressive policy the Hungarian nationalist kin-state project de-territorialises citizenship while simultaneously reinforcing an ethno-nationalist conception of sovereignty.

Erosion of borders and EU enlargement

Additionally, with the EU's significant enlargements into CEE also taking place in between the introduction of the Status Law and the Citizenship Amendment, the situation for kinship relations were dramatically different in 2010 than they were in 2001. For instance, in this timespan Hungary, Slovakia and Romania all became EU-members. Since the European integration project resulted in an erosion of borders in a setting where nations and states rarely overlap, leading to weakened state sovereignty, it benefited intensified kin-state politics and caused some states to pursue strengthened cross-border unity (Kemp, 2006). Therefore, although unintentionally, the EU has facilitated the resurgent ethno-nationalism evident in parts of the CEE by contributing to the decreasing significance of borders in Europe.

Since kin-state engagement became a nationalist party-political resource in Hungary as well as in Romania and Slovakia in 2001 and 2010, the minority protection that these policies claimed to advance were not prioritised. Additionally, the international norms emerging on legitimate kin-state behaviour were ambiguous and hence did not clarify the kin-state's role in ensuring protection of minority rights for its kin abroad. Unfortunately, this ambiguity of where the international community stands in relation to kin-state engagement means that national minorities can be 'weaponised' for geo-political and domestic-political purposes by kin-states. In combination with the regional broader developments of EU expansion and legal and political norms shifting, the political context for kin-state politics was fundamentally different in 2001 and 2010, which accounts for the diverging reactions facing the policies.

CONCLUSION

Initially, kin-state politics can seem contradictory, inconsistent and illogical. In the case of the diverging reactions to the two

Hungarian kin-state policies assessed here, there are four broad conclusions to be drawn. Firstly, the domestic-political contexts of the three main actors involved (Hungary, Romania and Slovakia) have been critical in deciding the intensity of the responses towards the policies. Secondly, regional developments such as significant enlargement of the EU into post-communist CEE and shifting legal and political norms regarding dual citizenship drastically changed the conditions for kinship relations in between the two law's implementations. Thirdly, the debate regarding the nature of kin-state engagement as either post-national and cosmopolitan or ethno-cultural and nationalist remain unsolved. Hungarian kin-state politics resists perfect categorisation since it draws on a mix of modern and postmodern norms of statehood, shapeshifting to align with different norms in varying contexts. Lastly, and relatedly, this flexibility paired with the issue of vague and ambiguous European norms hinder effective minority protection to be pursued and allows national minorities to continuously be mobilised into political narratives in pursuit of electoral gains. This contributes to the politicisation of kin-state engagement within domestic electoral competition, which generally is not to the benefit of the national minorities being instrumentalised. Thus, this composes a normative issue in need of attention.

The hopes that the expansion of the supranational EU would transcend nationalism and largely eliminate previous ethno-national tensions and national minority issues have therefore proven to be naive, considering the regional development of kinship ties in the last three decades. Furthermore, considering that Hungary, along with several EU member-states and aspiring members, has in recent years begun to de-democratise, resulting in decreasing tolerance of pluralism and multiculturalism, the protection of minority rights is further complicated. This study's findings should provide a starting point for future research investigating ways of overcoming the present instrumentalisation of kin-state politics, with the normative goal of increasing consistent and high-quality protection and support to national minorities. Importantly, the future avenues of research are advised to recommend and clarify what role the kin-state should employ in minority protection efforts in today's Europe.

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