

Chapter 3. Language Use and Educational Politics

If we take a look at the substance and timing of the High Commissioner's interventions into Romania's majority-minority relations, we can observe, *first*, a transition from instrumental to substantial issues; *second*, a concentration on one central issue; *third*, within this issue, a significant shift from a classic mediation role to a pro-active approach. In his first set of recommendations of September 1993, the HCNM still covered a large area of mainly instrumental questions, ranging from the role of the Council for National Minorities, a law on minorities, to a pardon in individual legal cases (cf. Chapter 2). Starting in 1995, the High Commissioner, not exclusively but mainly, concentrated on questions of minority language use, especially in the field of education. In the years 1995 and 1996, the Law on Education, adopted in June 1995, was on the top of his agenda. After entering into office of the coalition government, which included the RMDSZ, his main focus shifted more and more to the question of Hungarian-language university education. Given that the political actors were unable to reach concrete solutions, he directly addressed them with a pro-active approach on the question of an institutional reform of the most important university in Romania where instruction in Hungarian is provided, the Babeş-Bolyai University at Cluj. In this respect, it is remarkable that he submitted his recommendation for the first time directly to this institution and not to the Romanian foreign minister.

The HCNM's focus on educational issues coincided with the fact that these issues, and especially the university question, quickly developed into the most contentious issues between the Romanian majority and the Hungarian minority. In this chapter, we will deal with the general question of minority-language use, with a strong focus on educational issues. Because of the outstanding importance of this subject, a short theoretical introduction into language policies is necessary (Chapter 3.1). In the subchapters 3.2 and 3.3, we deal with the question of minority language use in public administration and in the public, meaning state-subsidized media. Finally, subchapter 3.4 will analyse the large field of minority-language education at the primary and secondary levels (Chapters 3.4.1 to 3.4.4) and at university level (Chapter 3.4.5). In order to make the motivation and activity of the Hungarian minority as well as the responses by majority players understandable, a retrospective view on the Romanian communist practice, concerning minority-language rights, will be integrated.

3.1 *Language Policies - Theoretical Considerations*

By focusing on the status of a given language from a socio-linguistic point of view, we can distinguish between two tightly interrelated aspects.⁵¹⁰ The *first* concerns the attribution of various functions to a language which has relevance in public communication. Here we can ask which language can be effectively used in education, judiciary, administration, health care, mass-media, etc. The *second* aspect is related to the institutionalization of the production of language competence. Of course, the main institutions responsible for this production of language competency are the public institutions of education and the mass media. The linguistic status of a language depends on in how many daily-life situations it can be effectively used and on the effectiveness of the relevant system of language reproduction. Against this background, the possibility, in practical terms, to use a minority language in public administration is as equally important as the possibility to learn the language in compulsory education. If a person cannot use a language in daily life, the practical value of acquiring this language decreases. Therefore, the linguistic status of a given language comprises both elements.

European standards in the field of minority language rights are concerned with promoting this kind of comprehensive and integrative vision. This is also true for the High Commissioner's general approach, in spite of the fact that the general recommendations on language rights are published in two separate documents: "The Hague Recommendations Regarding the Educational Rights of National Minorities"⁵¹¹

⁵¹⁰ This synthesis is based on Haarman 1988 and Haugen 1983.

⁵¹¹ FIER (Ed.) 1996b.

and the "Oslo Recommendations Regarding the Linguistic Rights of National Minorities".⁵¹² In the explanatory note of the "Oslo Recommendations" it is stated that:

The use of minority languages "in public and in private" by persons belonging to national minorities cannot be considered without making reference to education. Education issues as they relate to the languages of national minorities are treated in detail in The Hague Recommendations Regarding the Education Rights of National Minorities [...].⁵¹³

Thus, the separation of these two sets of recommendations is rather due to the fact that the HCNM has focused on educational issues and on practical deliberations, and not on theoretical and/or legal grounds.

For the assessment of the quality of the Romanian state's language policies, we synthesized an *ad hoc* topology for minority language policies, based on a scale ranging from promoting to prohibiting. The "items" on the scale reflect to what extent legislation permits, *via* education, the reproduction of minority languages and cultures and, at same time, the public use of a given minority language.⁵¹⁴ We distinguish between the following types of legislative measures:

Promotion. The minority enjoys the same linguistic status, if not in the whole country, then in those administrative units where it has a significant presence. This involves two facts. On the one hand, there exist no restrictions on the use of minority language(s) at all levels and forms of education. On the other hand, the legislation permits the use of minority languages in the public sphere of officially regulated social communication. The minority language(s) enjoy official status at country or regional level. In this situation, the motivation of members of a minority to achieve good performance in their mother tongue is not only based on the affective desire to preserve one dimension of their identity, but it is also a reasonable and practical affair.

Tolerance. The language policy allows education in minority languages covering almost all types and forms providing proper conditions for the institutional reproduction of these languages. Nevertheless, the state promotes only the use of the official/dominant language in public administration. The use of minority languages in officially regulated communication is rather an exception than a rule. Speaking in socio-linguistic terms, the aim of the state is to promote minority bilingualism, thus allowing minority language education, while imposing certain limitations on it, concerning levels and forms. This is the result of the state's objective to produce minority citizens who have a good command of the official language. Therefore, this policy comprises a positive attitude towards the maintenance of minority languages and a less positive one towards its use within officially regulated social communication, but without making efforts to extend the use of the official language into all spheres of official communication.

Restriction. The state allows minority languages to be taught within the framework of educational units as a separate subject matter, that is, the whole educational process being predominately organized in the language of the majority population. Minority persons are taught a certain degree of knowledge of their mother tongue within the institutionalized educational process. No other major function is allocated to the respective minority language. In officially regulated social communication, the official language prevails.

Prohibition. The state offers no institutional support for the reproduction of minority languages. The entire educational process takes place in the official language. Socialization of the minority language is achieved only outside the educational institutions (family, church, civil society).

⁵¹² Ibid. One should also mention the HCNM's Report on the linguistic rights of persons belonging to national minorities in the OSCE area, which is based on a questionnaire to the OSCE participating States.

⁵¹³ FIER (Ed.) 1998b, p. 13.

⁵¹⁴ This typology is based on several similar ones, see especially Oomen 1997, pp. 198-203, Skutnabb-Kangas/Philipson 1995, pp. 78-80. The analyses on the degree of the use of the official language in bi- or multilingual contexts from Kloss (1966, 1967, 1969) have also been used.

Although we will focus our analysis on the problem of the linguistic rights of minorities and the linguistic policies of Romania, the subject of linguistic rights is multi-dimensional and not reducible to the formal aspects of standards. Bourdieu points to the fact that conflicts about linguistic status are a symbolic expression of struggles for power and dominance (1991). Viewed from this angle, we can consider the quality of the relations between the Romanian polity and the Hungarian minority from Hroch's standpoint: both groups promote a nationalist project, which, though having a linguistic programme at its centre, represents a far more complex interest structure which cannot be reduced to the linguistic level (Hroch 1985, 1992). In this respect, efforts made to promote legal standards in minority-language use, in order to reduce the asymmetric relation between languages, must be viewed from a wider perspective, taking into account the fact that the linguistic programmes of ethnic minority groups are also strategies aimed at producing and safeguarding a relatively separate field of institutional authority.

3.2 *The Use of Minority Languages in Public Administration*

The problem of minority-language use in public administration was not among the most prominent issues referred to by the High Commissioner in Romania. However, in his first package of recommendations, this problem was mentioned. If one looks carefully at the wording, it is an example of how to make use of international standards in designing domestic policies:

In this context I wish to recall Recommendation 1201 of the Parliamentary Assembly which contains provisions, which, once their implementation is ensured, could help considerably to allay concerns which apparently exist among some minority groups. I think for instance of article 7.3, which states inter alia that in the regions in which substantial numbers of a national minority are settled, the persons belonging to a national minority shall have the right to use their mother tongue in their contacts with the administrative authorities.⁵¹⁵

In addition, there are indications that the issue of minority language use in public administration was not lacking on the HCNM's agenda during his visits in Romania. In 2000, when the Law on Local Administration was debated in Parliament, he made his interest manifest and "expressed the hope that legislation on local administration [...] would soon be adopted."⁵¹⁶ To give a background for the debates on this law, we will start with a brief excursus on communist administrative policies.

3.2.1 *Linguistic Rights and Administrative Policies during Communism*

Although the question of rights is a formal one in a totalitarian regime, even formal rights and also some practices in certain periods of communist rule can be used to highlight the tendencies that manifested after 1989 in Romanian language policies. Making reference to this explicitly is also important, in light of the fact that the RMDSZ and some scholars accused the Romanian state of letting the status of minority rights, after 1989, fall behind those rights that had been formally granted during communism. Weber assessed the development of domestic legislation on minority rights between 1990-1996 as follows: "Certain categories of rights were either denied or unacceptably restricted, sometimes even more so than during the former political system: such was the case of the use of mother tongue in court and administration".⁵¹⁷

Regarding linguistic rights in Romania before 1989, we can fall back on Capotorti's comprehensive study of 1979.⁵¹⁸ In this study, he included Romania in the category of those countries where "minority languages have not been granted official status either at national or at the regional level but their use is guaranteed by the Constitution, by law or by treaties in a wide range of activities".⁵¹⁹ Concerning the use of minority languages in contact with authorities, Capotorti quoted article 22 of the Romanian

⁵¹⁵ HCNM letter to Meleşcanu, 9 September 1993.

⁵¹⁶ OSCE Newsletter, Vol. VII, 2000, No. 7/8, p. 23.

⁵¹⁷ Weber 1998, p. 212.

⁵¹⁸ Cf. Capotorti 1979.

⁵¹⁹ Ibid., p. 76.

Constitution of 1965 stating that "in districts inhabited by population of other than Romanian nationality, all organs and institutions shall also use the language of that nationality in speech and in writing, and shall appoint officials from among that population or from among citizens conversant with the language and way of life of the local population".⁵²⁰ The right to use the mother tongue in the judiciary "at all stages of the proceedings is guaranteed by the constitution and by a series of laws [...] the parties to a lawsuit and the witnesses not only have the right to use their own language but may also ask for translation of all the documents in the case".⁵²¹ As for education, article 22 of the 1965 Constitution granted the free use of the mother tongue at every level of instruction;⁵²² the Law on Education of 1978 granted the use of the mother tongue in vocational education (art. 106, para. 2) and allowed educational institutions to hold admittance exams to universities in the languages in which students had studied (art. 109).⁵²³

Although legislation was permissive, during the course of time, especially during the last decade of communist rule, the actual policy completely contradicted its spirit and wording. Administration, as well as education, were the main areas covered in the nationalizing, ethnocentric policies of the communist regime. However, ethnocracy, in the sense of an ethnically selective promotion of people in the administration, cannot be reduced to Ceaușescu's time. Ethnicity played an important role in the Transylvanian administrative system, starting in the nineteenth century. As Barkey points out: "Both Hungary and Romania were nationalising states, but their paths differed. Hungary had Magyarised by opening the doors to those willing to become Hungarian [...] Romania Romanised by [...] purging non-Romanians from their positions."⁵²⁴ This historical trend was seemingly interrupted for a period of two and a half decades after the Second World War when the so-called Hungarian Autonomous Region was created. Obviously, this autonomy was only of nominal nature. Its objective was to assure a kind of power-sharing between the central communist administration and the local Hungarian communist elite. By transferring some symbolic and administrative authority, the regime hoped to control the local Hungarian communities. When Ceaușescu came to power, a new administrative reform was implemented. The above-mentioned Hungarian Autonomous Region was abolished and the county remained the main administrative unit between centre and the municipalities. For some time, in regions where Hungarians had a significant presence, the local Hungarian communist elite controlled this level, or at least had some access to leading positions. This kind of control through co-optation proved to have some effectiveness. It allowed communist leaders of Hungarian origin to satisfy the local population with small gestures.⁵²⁵

After the mid-seventies the ethnic Hungarian local elite was marginalized, and "most of the key posts in the local administration were filled by loyal Romanians",⁵²⁶ a similar process which started even among mid-level functionaries. The advancement of this process depended on the share of the Hungarian population in a given county or settlement. As a result, according to the census of 1992, the share of Hungarians working in public administration was 3.73 per cent; the percentage of high-ranking officials of Hungarian origin was 2.7 per cent, compared to the Hungarians' share in the whole population of 7.1 per cent.⁵²⁷ These unfavourable changes during the last two decades, in absolute as well as in relative terms, generated considerable frustration among the Hungarian elite, which in 1989 started to renegotiate the status of the Hungarian minority within the Romanian state, thus generating the nationalistic reactions of a part of the mostly Romanian administrative elite.⁵²⁸

⁵²⁰ Ibid., p. 79.

⁵²¹ Ibid., pp. 80-81.

⁵²² Cf. Constituția din 21 August 1965 [Constitution of 21 August 1965], in: Pro Europa 1997, p. 26.

⁵²³ Cf. Legea Învățământului (28/1978) [Law on Education], in: Pro Europa 1997, p. 28.

⁵²⁴ Barkey 2000, p. 516.

⁵²⁵ Cf. the memoirs of Károly Király, a former communist functionary marginalized during the Ceaușescu era, then member of the first NSF leadership after December 1989 (Király 1995, 1999).

⁵²⁶ Bugajszki 1995, p. 200.

⁵²⁷ Cf. Varga 1998, p. 274.

⁵²⁸ Cf. Gallagher 1999, p. 232.

3.2.2 Public Minority-Language Use and Decentralization as Ethno-political Battlegrounds (1990-1996)

One of the major points of the RMDSZ strategy was to strengthen the positions of ethnic Hungarians within the administrative system. Already in its first communiqué on 25 December 1989, the RMDSZ stressed the need of the "representation of the nationality in the legislation, state administration and judiciary by way of individuals elected or appointed by our community, who have the benefit of the trust of our national minority".⁵²⁹ Some months later the following was stated in the programme of the 1st RMDSZ Congress: "The best assurance for the exercise of the various individual and collective minority rights is represented by the creation of a system of local self-governments. Within this framework, which ought to be set up, the possibility of free language choice, the option of parallel use with the state language of other language, will be created."⁵³⁰ From the RMDSZ's point of view, its linguistic programme was strongly related to the idea of increasing access to administrative resources within the context of a general devolution of the central power. Later, when the idea of autonomy was forwarded, the linguistic programme was, to a certain degree, subordinated to the idea of a reallocation of public authority along ethno-linguistic lines. Article 6 of the RMDSZ draft Law on National Minorities and Autonomous Communities of 1993 states: "In those units of public administration, in which the persons belonging to a national minority or to an autonomous community constitute the majority, they may exercise local self-government, and collectively they shall have regional autonomy. In the cases specified in the preceding sentence that minority may use its mother tongue as official language."⁵³¹ This link between linguistic rights, decentralization and local autonomy marked the debates of the following years.

The response of the ruling majority elite to the RMDSZ's merging of the issues of linguistic minority rights with the general devolution of central power consisted, on the one hand, in the narrowing down of formally existing linguistic rights and, on the other hand, in the nationalist instrumentalization of the RMDSZ's claims for decentralization to legitimize the maintenance of the central administration's strong control over the local authorities. For the political forces, having come to power after 1989, the issue of decentralization, *per se*, was a sensitive problem, because the central administration was one of the tools with which their power was consolidated. Against this background, the insistence of the RMDSZ on decentralization and the connection of this claim with the demand for various forms of autonomy presented a good opportunity to use the alleged dangers, which ethnic Hungarians represented, as an important argument for the maintenance of centralism.⁵³²

With the new Law on Public Administration of 1991,⁵³³ a structure of formally decentralized local administration was set up, based on the French model with three levels of authority: the local, the county and the central one. The local and county councils were elected bodies responsible for administering the relevant units. The institution of the prefect was intended to unite and co-ordinate the different levels of authority. The government appoints the prefects; part of their competencies is to administer the decentralized units of the central government and to control the legality of the decisions of the elected local bodies. This system of local self-government was far from offering real local autonomy, either in terms of resources or regarding political influence. The Special Rapporteur of the Parliamentary Assembly of the Council of Europe noted in 1993 that the lack of specific legislation on "the local authorities rights to collect local taxes and duties [...] seriously hamper[ed] the effective exercise of local autonomy."⁵³⁴ Under these circumstances, (party) politics could play an important role in the redistribution of the central budget to the local authorities.⁵³⁵ Even in the 1991 Law on Public Administration, an article was included on the ethno-political dimension of the decentralization process

⁵²⁹ Az RMDSZ Ideiglenes Intéző Bizottsága Kiáltványa [Communiqué of the Provisionary Committee of the RMDSZ], 25 December 1989, in: Bárdi/Éger 2000, pp. 51-52, here p. 52.

⁵³⁰ The programme of the RMDSZ, adopted at its 1st Congress in April 1990, in: Bárdi/Éger (2000), pp. 66-72, here p. 69.

⁵³¹ RMDSZ, Proposition for a Law on National Minorities and Autonomous Communities, in: RMDSZ 1994, pp. 35-54, here p. 43.

⁵³² Karnoouh puts it more strongly: the claims for devolution formulated by the RMDSZ in ethnic terms had the effect of strengthening the excessive centralism of the central government as a unique guarantee of Romania's territorial integrity (1996).

⁵³³ Cf. Legea (69/1991) administrației publice locale [Law on Public Administration].

⁵³⁴ CoE/PA, Doc. 6901, 19 July 1993, para. 52.

⁵³⁵ The regulations on the financial aspects of local administration were voted three years, respectively five, after the adoption of the Law on Public Administration (Legea 27/1994 and Legea 72/1996).

stating that "the implementation of principles [...] cannot affect the national and unitary character of the Romanian state."⁵³⁶

More concretely, the major strategy used to convince the population that an increased local autonomy will lead to ethnic separatism was to politically attack those counties where Hungarians were in majority, legitimizing in this way, in an indirect manner, the control of the centre. As we have shown in subchapter 1.2.1.1, this campaign was focused on the two counties Harghita and Covasna. The ethnic background of the prefect heading these counties became a sensitive issue. After 1989, the government had appointed two prefects of Hungarian origin.

In July 1992, under pressure from Romanian nationalists, the Stolojan Government had removed the ethnic Hungarian prefects of Covasna and Harghita counties, the two counties where ethnic Hungarians constitute a clear majority. Following antigovernment protests, Stolojan agreed to a compromise arrangement, appointing coequal prefects, one ethnic Hungarian and one ethnic Romanian, in each of the counties. This solution proved to be unsatisfactory to representatives of both ethnic groups. On March 24, 1993, the Vacaroiu Government, again due to pressure from Romanian nationalists, ended the multiethnic arrangement by appointing ethnic Romanian prefects in each county.⁵³⁷

Regarding the aspect of linguistic rights, the 1991 Law on Public Administration stipulates that persons belonging to national minorities can use their mother tongue in contacts with the public administration, however, only under restrictive conditions:

In all relations between the citizens and the local public administration bodies Romanian language shall be used. The citizens belonging to national minorities, can address the local public administration bodies and the public service bodies at local level in their mother tongue. The official application forms and all written documents will be accompanied by their relative official Romanian translation. In case the official representative of the public local administration does not know the language of the respective minority, a translator will be used.⁵³⁸

This provision allows the use of a minority language in local administration, but spoils this right at the same time by making it dependent on whether or not an official exists who can speak this language and by transferring the costs for translation to citizens. Weber rightly asks "what would be the practical reason for a person to apply to the authorities in the mother tongue?"⁵³⁹ The only provision of the law which made the use of minority languages compulsory for the local administrations refers to the publication of the decisions of local councils, stating that where a national minority lives *in a significant amount*, the decisions should be made public in its language, too.⁵⁴⁰ But, also this provision was ambiguous as it left it to the local majority to decide whether a given minority represented *a significant amount*. Another problem was that a number of local councils were composed in majority or completely of ethnic Hungarians, and even if Hungarian was spoken by all of the councillors, the meetings of this assembly had to be held in Romanian according to the provisions of the law.⁵⁴¹

We can only speculate on another intention to limit the use of minority languages in public administration. Limiting these rights was a way to not offer legal access to administrative resources to Hungarian-speaking officials. Thus, linguistic rights and the subsequent need to promote bilingual functionaries were not primarily viewed in terms of bilingualism within the administration, but in ethno-political terms aimed at preventing better chances for ethnic Hungarians to accede to administrative positions.⁵⁴²

The limitation of linguistic rights continued with the adoption of the Constitution. Apart from the general issue of the official language contested by the RMDSZ (cf. Chapter 2.1), the debates on the use of

⁵³⁶ Legea (69/1991) administrației publice locale, art. 1.

⁵³⁷ U.S. Department of State, Romania Report on Human Rights Practices 1993, p. 23.

⁵³⁸ Legea (69/1991) administrației publice locale, art. 54.

⁵³⁹ Weber 1998, p. 212.

⁵⁴⁰ Cf. Legea (69/1991) administrației publice locale, art. 30.

⁵⁴¹ Cf. *ibid.*, art. 26.

⁵⁴² This was confirmed by a research project on ethnic Romanian officials working in linguistically mixed areas. These functionaries refuted the idea of promoting the knowledge of minority languages as a criterion for employment (Horváth 2001).

minority languages in the judiciary created tensions too. As mentioned, the communist regime, though failing to respect them, had noticeable regulations permitting the extensive use of minority languages before the courts. Bugajski mentions that in the draft constitution, a similar provision had existed, which "subsequently disappeared as a result of pressure exerted by the National Salvation Front and by nationalist deputies."⁵⁴³

Against this background, it was not by chance that the question of extending the use of minority languages at local level was also discussed in the summer of 1993 - when members of the PDSR met with (second-line) RMDSZ leaders to try to negotiate for the first time a new arrangement. After all, the government and the parties represented in Parliament had, in the course of Romania's accession to the Council of Europe, committed themselves to adopt and include, in domestic legislation, the European standards of minority protection, among them Recommendation 1201 and the European Charter for Regional and Minority Languages.⁵⁴⁴ As we have shown in Chapter 1.2.1.4, this first attempt at negotiating failed.

When analysing minority rights in public administration, one cannot omit the activities of Gheorghe Funar, the controversial mayor of the city of Cluj, where ethnic Hungarians amount to more than 20 per cent of the population. He became notorious with numerous initiatives against the Hungarian minority and monuments recalling the Hungarian history of the city. Some reports may illustrate his activity: "On 30 November [1992] Mayor Gheorghe Funar ordered Hungarian street names in Cluj changed and a Romanian-language plaque installed on the statue of mediaeval Hungarian King Mathias."⁵⁴⁵ And, "[I]n 1994, he nearly succeeded in turning the town into a battleground between Romanians and Hungarians, allowing archeological excavations [...] The Hungarians, who make up about one-fifth of the town's population, feared that the purpose of the endeavour was to eradicate their own monuments attesting to Hungarian historical presence in Transylvania."⁵⁴⁶ The central government seemed powerless against the unlawful behaviour of the mayor: "In the Transylvanian city of Cluj, Gheorghe Funar, elected mayor in February 1992 as candidate of the nationalist Party of Romanian National Unity (PUNR), continued his anti-Hungarian provocations. He took unsuccessful steps to evict a number of publications from their offices, including a Hungarian-language newspaper. The Central Government, acting through the local prefect (district head), declared several of Funar's actions null and void, but the municipality continued to use local statutes and regulations to harass local Hungarians."⁵⁴⁷ We can add incidents which were less prominent in the international media: harassment of Hungarian language schools,⁵⁴⁸ the forbidding of any public inscription and even private advertisements in Hungarian, for example. Funar's activities against any public articulation of the Hungarian language clearly showed the need for a juridical solution, but they also illustrate to what degree the PDSR could be blackmailed by its extremist coalition partners.

3.2.3 *No Major Progress in spite of RMDSZ Governmental Participation*

After entering office, the coalition government put the question of linguistic minority rights in public administration on the governmental agenda. The general objective of the RMDSZ consisted in the "elaboration of the provisions referring to the protection of minorities according to those included in international agreements which strengthen local autonomy by their interpretation in good faith".⁵⁴⁹ In this document and also in general, the RMDSZ, after 1996, cautiously avoided to merge the two issues of linguistic rights with the development of local autonomy in the same manner as it had been done before. In spite of this shift in rhetoric, the frames of interpretation functioning before 1996, were rapidly resuscitated at the very beginning of 1997 when the opportunity of appointing ethnic Hungari-

⁵⁴³ Bugajski 1995, pp. 206-207.

⁵⁴⁴ Cf. CoE/PA, Doc. 6901, 19 July 1993, para. 44 and 59.

⁵⁴⁵ RFE/RL Newline, 2 October 1992, Ethnic tensions rise in Transylvania.

⁵⁴⁶ Shafir 2000 b and 2000c. Cf. also a collection of articles on Funar's activity between 1992-1996, Funar korszak Kolozsváron [Funar era at Cluj] at: <http://www.mek.iif.hu/porta/szint/tarsad/politika/relations/funar/html> (9 May 2002).

⁵⁴⁷ U.S. Department of State, Romania Report on Human Rights Practices 1993, p. 23.

⁵⁴⁸ The city authorities tried to change those directors who did not take down bilingual signs with the name of their institutions (Szabadság, 4 April 1992, Adevarul de Cluj, 4 April 1994).

⁵⁴⁹ Cf. RMDSZ, Priority List on the Application of the Government Programme, adopted by the 5th Congress of the RMDSZ on 3/4 October 1997.

ans as prefects was being discussed. Although this debate can basically be interpreted as a fight for key positions within the new coalition, the reactivation of arguments referring to ethnicity represents an important signal; that even within a coalition, including the Hungarian party, the issue of access to key administrative positions was still being debated in ethno-political terms.

Although the question of minority language use in public administration became a source of tension in the coalition, the Law on Public Administration was rather quickly modified by an emergency ordinance⁵⁵⁰ amending the paragraphs regulating minority-language use in "line with the requirements of a genuine minority protection".⁵⁵¹ According to articles 23-25 and 58 of the amended law, authorities are obliged to make their decisions public in the language of a given minority if this minority represents more than 20 per cent of the inhabitants of a municipality. In this case, the minority population also has the right to address the local authorities in their mother tongue, in written form or orally, and to be responded to in that language. The local authority is responsible for hiring personnel able to use the language of the given minority, or to pay the costs of translations. Where more than one third of the councillors belong to a national minority, the use of their language in council meetings was granted. The law did not only permit, but also made bilingual roads signs compulsory for municipalities with a minority population of more than 20 per cent. This provision, apart from its symbolic aspects, granted the possibility of offering tangible evidence of the changed orientation of the minority policies of the new Romanian government. Although the Minister on National Minorities used his formal authority to implement this particular position, by sending a circular letter to the prefects to act accordingly, several prefects hardly conformed, and even obstructed the implementation of this provision.⁵⁵² Moreover, a campaign against bilingual road signs was initiated in several Romanian-language mass media outlets.

A second problem was the employment of bilingual officials. Some prefects took the view that this represented discriminatory treatment based on ethnicity. This was the case in Mureş county, where the prefect argued that it is hardly legal to use the knowledge of the Hungarian language as a criterion for employment, deliberately combining language competence with ethnicity, a point of view which was supported by a part of the ethnic Romanian officials.⁵⁵³

According to Romanian law, emergency ordinances have to be approved by the Parliament. This led to long and contentious disputes among the coalition partners, before parliamentary approval could be reached. However, the Constitutional Court declared Emergency Ordinance No. 22 unconstitutional by arguing that the changes introduced affected the substance of the initial law and also invoked procedural mistakes during its adoption process.⁵⁵⁴ Therefore, a new draft law,⁵⁵⁵ without significant changes, compared with the provisions of Emergency Ordinance No. 22, was brought before Parliament.⁵⁵⁶

The other important development in this period, concerning minority-language use in public administration, was the approval of a law regulating the status of public functionaries.⁵⁵⁷ Paragraph 99 of this law stipulates that in territorial administrative units, where the share of a certain minority group is above 20 per cent, public functionaries, who have direct contact with the public, ought to speak the language of the minority.

⁵⁵⁰ Ordonanța de urgență (22/1997) pentru modificarea și completarea Legii administrației publice locale nr. 69/1991 [Emergency Ordinance (22/1997) to modify and complete the Law on Local Public Administration No. 69/1991].

⁵⁵¹ Weber 1998, p. 214.

⁵⁵² Interview with official of the Department for the Protection of National Minorities, 25 March 1999.

⁵⁵³ The post related to which the prefect raised the problem of discrimination on ethnic grounds was later occupied by a bilingual person of Romanian origin (Horváth 2001).

⁵⁵⁴ Interview with official of the Department for the Protection of National Minorities, 25 March 1999.

⁵⁵⁵ Proiect de lege privind organizarea administrației publice locale și regimul general al autonomiei locale [Draft law regarding the organization of the local public administration and the general regime of the local autonomy], in: Departamentul pentru Minoritățile Naționale/Sectorul Acte Normative [Department for the Protection of National Minorities/Legislative sector], no year, Material informativ privind noile reglementări în domeniul administrației publice locale și al învățământului, referitoare la minoritățile naționale [Info sheet on the newest regulations concerning the national minorities in the field of local public administration and education], [in the author's files].

⁵⁵⁶ Interview with official of the Department for the Protection of National Minorities, 25 March 1999.

⁵⁵⁷ Cf. Legea (188/1999) privind Statutul funcționarilor publici [Law (188/1999) concerning the Statute of the functionaries employed in the public sector].

After the difficult debates of 1999, the Law on Public Administration passed the Senate. This transpired in spite of the fact that the opposition tried to delay the voting by leaving the respective meeting, as a sign of protest against the provisions of minority-language use.⁵⁵⁸ In the Chamber of Deputies, however, the debates continued and the chances to adopt the law decreased during the parliamentary term 1996-2000. As the elections were approaching, there was doubt about whether the future Parliament would be willing to adopt a law with such positive provisions on minority-language use. In this context, the High Commissioner had expressed the hope that legislation on local administration would soon be adopted. By expressing this hope, he tried to give the still governing coalition an additional impulse to adopt a law with strong provisions on minority-language use, worked out by the Romanian parties together with the RMDSZ.

The doubts regarding the future of the Law on Public Administration proved to be groundless. After the 2000 elections, the PDSR, in exchange for parliamentary support by the RMDSZ, was willing to lend support without making major changes to the provisions on minority-language use,⁵⁵⁹ and in April 2001, the new Law on Public Administration was approved.⁵⁶⁰ Article 90, paragraph 2 of this law states:

In the administrative territorial units where the proportion of the citizens belonging to a national minority of above 20% of the population, in their relations with the authorities and staff of the local public administration citizens belonging to national minorities may also communicate, orally or in writing, in their mother tongue and they shall be answered both in Romanian and in the mother tongue.⁵⁶¹

Article 90, paragraph 3 clearly states that persons who speak the language of the given minority have to be employed in public service positions where they have contact with the public. Article 90, paragraph 4 obliges local authorities to post any inscriptions of public interest including road signs also in the language of a given minority, and to make public the agenda of the meetings of the local councils (art. 40) and its decisions of normative nature (art. 51) in this language - under the same condition of the 20 per cent threshold.

The law has an impact on about 360 territorial administrative units, out of which 308 are inhabited by ethnic Hungarians, nine by Roma and 16 by Ukrainians.⁵⁶² Concerning the technical details of its implementation, an undersecretary of state affirmed that the RMDSZ was not pressing for excessively formalizing and institutionalizing the issues of minority-language use.⁵⁶³ The idea behind this was probably to avoid major changes at the level of the local administration, in terms of bilingual personnel recruitment or employment of authorized translators, and rather to focus on language use, as such, than on the idea of proportionality, in terms of ethnicity of the employed staff. This happened in spite of the fact that the agreement between PDSR and the RMDSZ contains a paragraph stating: "A correct representation shall be secured in the Government and in the social-professional institutions of the country, on the basis of equal chances."⁵⁶⁴ For the strategy of the RMDSZ, it is important to note that the objective of increased access of minorities to administrative positions was no more intrinsically and directly linked with the promotion of minority-language use.

⁵⁵⁸ Cf. T.S.Z.Z, *Román Parlamenti huzavona a kisebbségi nyelvhasználatról* [Romanian Parliamentary vacillation on the minority-language use], in: *Népszabadság*, 26 May 1999.

⁵⁵⁹ Cf. Agreement between the Democratic Alliance of Hungarians of Romania (DAHR) and the Party of Social Democracy in Romania (PDSR), [at the author's files].

⁵⁶⁰ Cf. Law (215/2001) concerning the general working of local autonomy and organization of the Local Public Administration, 23 April 2001.

⁵⁶¹ Ibid.

⁵⁶² Data presented by an official of the Department for Interethnic Relations at the seminar "Aplicarea legii Administrației Publice Locale privitoare la utilizarea limbii materne în administrație" [The implementation of the provisions on the minority-language use in the administration according to the Law on Public Administration], Târgu Mureș, 18/19 May 2001.

⁵⁶³ Interview with undersecretary of state of the Department for Interethnic Relations, 28 November 2001.

⁵⁶⁴ Agreement between the Democratic Alliance of Hungarians of Romania (DAHR) and the Party of Social Democracy in Romania (PDSR), [at the author's files].

3.3 *The Public Media and the Minorities*

Another aspect of minority-language use, the role of public media, was also addressed by the High Commissioner in 1993 when he stated: "A useful role can also be played by the minority advisory committee to the Audio Visual Council which has recently been created by the Council for Ethnic Minorities. Provided that serious consideration is being given to its recommendations, radio and television programs for minorities could be better adapted to their wishes."⁵⁶⁵ In a short excursus, we will highlight several features and developments related to the problem of minority access to mass media.

The problem of minority-language use in the public media should be analysed under the concrete conditions prevailing in a certain minority. For the Hungarian minority, its relative size and its closeness to the kin state are decisive factors. A population of 1.7 million is able to sustain its own market without the need for major state subsidies. In Romania, eight major Hungarian-language dailies are printed with a circulation of more than 110,000 copies in total. And this is just the top of the Hungarian-language print media, which number about 60 titles.⁵⁶⁶ Several of them, especially the cultural ones, receive regular subsidies from the Romanian state budget. There are also occasional subsidies by the Illyés Public Foundation (cf. 1.2.1.3). As for electronic media, there are a number of private regional radio and television stations broadcasting in Hungarian. The Romanian public television and radio company also offers a significant amount of time for Hungarian-language programmes, both in national and regional coverage. There are no major political or legal obstacles for the flow of information from Hungary to Romania. Duna TV, a Hungarian satellite station created for the Hungarians abroad, is the most important, but not the only Hungarian-language channel retransmitted by cable companies. Specialists conclude that the Hungarian-language media system in Romania is "a full media system"; its components are, in the majority of cases, not parts or appendixes of Romanian media.⁵⁶⁷

This is not the case with other minorities. Their publications depend, in most cases, on subsidies by the Romanian state. In 1996, the cultural union of Albanians of Romania received 40 million lei (approx. 15,000 US-Dollar) and, in 1997, for issuing an Albanian-language journal, 86 million lei (approx. 12,500 US-Dollar).⁵⁶⁸ The Romanian public broadcasting company almost exclusively transmits television and radio programmes in the languages of the smaller minorities. Given this situation, the recommendation of the HCNM mainly aimed at the needs of the smaller minorities which have a pronounced interest in an institution regulating the activities of public television and radio. Regarding its substance, although addressing the issue of public media, the HCNM's recommendation was mainly focused on the general intention of raising the effective authority of the Council for Ethnic Minorities. The High Commissioner did not fall back on this issue in further (published) recommendations.

Some specific problems should be mentioned. The first one concerns the scope of time for broadcasting in minority languages. One of the objectives of the RMDSZ was to increase the amount of Hungarian-language programmes up to seven per cent of the total time of broadcasting - that is, in proportion to the population share of the Hungarian minority.⁵⁶⁹ The editors of Hungarian-language programmes were dissatisfied with the manner in which their programmes were scheduled. As the expansion and restructuring of the public television was going on, a part of the programmes in Hungarian was transferred to the second channel, which had no overall coverage, and especially did not cover Transylvania.

Another and more political problem of this period, up until 1996, was the intention of public television to reduce the issue areas covered by the special TV programmes for minorities, in particular the Hungarian one. The attempt was made to try to limit the minority programmes to what was called "traditional", meaning non-political cultural themes.⁵⁷⁰ This measure was not exclusively directed toward minorities, but was part of an overall attempt by the PDSR government to exercise more

⁵⁶⁵ HCNM letter to Meleşcanu, 9 September 1993.

⁵⁶⁶ Cf. Magyari 2001.

⁵⁶⁷ Magyari 2001, p. 43.

⁵⁶⁸ Cf. Weber 1998, pp. 236-238.

⁵⁶⁹ Cf. RMDSZ, program [The Programme of the RMDSZ], adopted at the 3rd Congress, 16 January 1993, in: RMDSZ Közlöny [RMDSZ Bulletin], No. 4/1994, pp. 1-8, here p. 4.

⁵⁷⁰ Cf. RFÉ/RL Newslines, 2 February 1993, Romania Bans Minority News Broadcasts.

political control over public television, as the opposition was striving for more access to it. The special programme of the Hungarian minority frequently presented news and comments, reflecting the position of the opposition which was not presented in the main news on public television. In the end, this intention of an indirect but nonetheless effective form of censorship was not applied. In 1993, however, the political control of the mass media by the governing party was frequently voiced as a major concern.⁵⁷¹ In this context, the HCNM's recommendation to increase the influence of the Audio Visual Council of the Council for National Minorities should also avert the above-mentioned tendency to abuse the public media. Later, a broader-based control system was set up for public radio and television, wherein minorities were able to play their role and make recommendations.

The remaining problems for the Hungarian minority are rather small. For example, the National Audiovisual Council hesitated, in late 1999, to license a private radio station with half of the broadcasting time in Hungarian, arguing that this station had a name which was similar to one in Hungary. After political interventions, the license was given. Attempts to impose compulsory subtitling in Romanian of programmes broadcast by private stations in languages other than Romanian were made in 1999 but quickly turned back. The communicational needs of the Hungarian minority have more or less been solved in the context of the changes which have taken place in the structure of the media system. However, one point made by the RMDSZ electoral programme of 2000, namely, to set up a Hungarian-language public radio station which covers all regions of Romania inhabited by Hungarians⁵⁷² - an idea supported by the PSD and included in the bilateral protocol of the two parties - has still to be implemented.

On the contrary, the communicational needs of the small-sized minorities have not been solved. In 1997, when public television was reorganized, the special programmes for minorities were broadcast at late hours with a low audience turnout. This was motivated by the fact that these programmes did not attract much advertising. The Council for National Minorities protested in a communiqué,⁵⁷³ but without any major effect. This could be interpreted as lack of authority on behalf of the Council, but it is questionable whether, in the rapidly changing Romanian media system, characterized by a quick increase of programmes with local or regional focus, it is still efficient for minorities to be presented on the main public channel. This is especially true for regionally concentrated minorities. Perhaps it is not the best strategy to strive for more time on the central channels, but rather to produce regional programmes. In fact, the Department for the Protection of National Minorities has already financed several programmes of this kind.⁵⁷⁴

3.4 *Educational Problems of the Hungarian Minority*

3.4.1 *Sources of Educational Stress of the Hungarian Minority*

Educational as well as other minority rights were always more impressive on paper than in practice during the communist period. However, beyond this general truth, a clear development can be observed: Ceaușescu's regime's increasingly fervent nationalizing policies led to a gradual levelling off of educational minority rights, especially at secondary and tertiary⁵⁷⁵ levels. In this subchapter, we will give a brief overview of this process and we will focus on the Hungarian minority. Some historical background will be provided in order to establish the development of this minority's policies after 1989.

According to Antal and based on Romanian official statistical sources, in the academic year 1970-1971, Hungarian students represented 5.38 per cent of Romania's student population, in 1977-1978 5.8 per cent and, in 1980-1981 5.6 per cent,⁵⁷⁶ compared to a share of the ethnic Hungarian population in

⁵⁷¹ Cf. Gross 1996, p. 77.

⁵⁷² Cf. RMDSZ Választási program 2000 [Electoral Programme 2000], electoral brochure, p. 48.

⁵⁷³ Cf. Communiqué, 8 July 1997, in: Documentele Consiliului Minoritatilor Nationale 1997-1998, Bucharest.

⁵⁷⁴ Interview with official of a regional branch of the Department for the Protection of National Minorities, 19 March 2000.

⁵⁷⁵ Tertiary level of education, British English for higher education.

⁵⁷⁶ Cf. Antal 1993, p. 18.

Romania of 7.95 per cent in 1977. Illyés reports, although without referring to specific sources, that in 1960 ethnic Hungarians registered at universities represented 6.1 per cent of the total student population,⁵⁷⁷ whereas the share of Hungarians in the overall population was 8.5 per cent in 1966. The key institution for Hungarian-language university education in Romania was, until 1959, the Bolyai University at Cluj, with its seven faculties and 2,470 students in the 1958-1959 academic year.⁵⁷⁸ In 1959, the Bolyai University was merged with the Romanian-language Babeş University, constituting the Babeş-Bolyai University. This new institution maintained a certain degree of separation between the Romanian- and the Hungarian-language units until 1964. Thereafter, even these units were totally merged with the Romanian structures.⁵⁷⁹ In 1989, the Babeş-Bolyai University had only 661 Hungarian students.⁵⁸⁰

Taken from the various censuses in Romania, perhaps the clearest and best documented indicator for the share of members of the Hungarian minority attending university is the share of persons who have a university degree. In 1956, within the ethnic Romanian population of eight years and older, the share of graduated persons was 1.3 per cent; the respective share for ethnic Hungarians was one per cent.⁵⁸¹ In 1966, within the ethnic Romanian population of twelve years and older, graduated persons represented 2.2 percent, whereas the share of graduated ethnic Hungarians was 1.5 per cent.⁵⁸² This asymmetric distribution became more pronounced in 1992, when, within the population of 12 years and older, the share of graduated Romanians was 5.3 per cent, while the share of graduated Hungarians was only 3.6 per cent.⁵⁸³ The differences in the asymmetric distribution of students (weaker) and graduates (stronger) can at least be partially explained with the prominent migration of Hungarian graduates.⁵⁸⁴ This migration can be seen in the context of the gradual marginalization of the Hungarian elite in the administration, army and academia. Based on the relative share of graduates, we can clearly speak of a deepening under-representation of ethnic Hungarians in university education during the communist period. This is especially important because university education is the basis of elite production.

Unfortunately, the database for development at the secondary level is far less well documented. Data are lacking, not reliable and/or manipulated by political ends. The following developments can, however, be discerned: *first*, the gradual unification of Romanian- and Hungarian-language institutions; *second*, an increase in Romanian-language classes and a parallel reduction in Hungarian-language classes within these bilingual institutions; *third*, the differentiation of criteria for setting up Romanian- and minority-language classes; and *fourth*, the limitation of the use of minority languages in vocational education.

Originally separate Hungarian-language educational units at the secondary level were transformed into bilingual ones. This process started in 1955-1956 when, at country level, 1,022 Hungarian-language elementary schools existed as separate institutions, and 38 schools were functioning where there were Hungarian sections. In 1958-1959, these figures decreased to 915 separate Hungarian-language schools and 124 Hungarian-language sections.⁵⁸⁵ The various reforms of the educational system were substantiated by the alleged need for closer ties between minorities and majority.⁵⁸⁶

The process of reducing the number of separate Hungarian-language institutions was linked to a cut-down in possibilities to attend primary and secondary educational units with Hungarian as the language of instruction. In 1973, the Presidential Decree No. 703 compelled the schools in every settlement to set up classes in Romanian, regardless of the number of pupils. For ethnic Romanians, three pupils were sufficient to set up a class, while the corresponding number for Hungarians was twenty-five. The situation became even worse in 1985, when the regime started to send Hungarian-speaking teachers, during their compulsory period, to areas which were not inhabited by ethnic Hungarians, thus pressing

⁵⁷⁷ Cf. Illyés 1982, p. 180.

⁵⁷⁸ Cf. RMDSZ 1998, p. 11.

⁵⁷⁹ Cf. Illyés, p. 178.

⁵⁸⁰ Cf. RMDSZ 1998, p. 11.

⁵⁸¹ Data from Gilberg 1974, p. 141.

⁵⁸² Cf. *ibid.*

⁵⁸³ Data from CNS 1995, pp. 404-425.

⁵⁸⁴ Cf. Varga 1998a, p. 270 (cf. Charter 1.1.1).

⁵⁸⁵ Cf. Illyés 1982, p. 175.

⁵⁸⁶ Cf. *ibid.*, p. 174.

for more Romanian-language classes in high schools attended by Hungarians. As a consequence, more ethnic Hungarian pupils were receiving instruction in Romanian.⁵⁸⁷ In 1979-1980, there were 278,518 pupils enrolled at the pre-university level in Hungarian-language classes,⁵⁸⁸ whereas 83,885 pupils of Hungarian origin were frequenting schools with Romanian as the language of instruction,⁵⁸⁹ which means that almost a quarter of the Hungarian pupils had tuition⁵⁹⁰ in Romanian. The cutback in Hungarian-language vocational education was also motivated by the need for easier integration of minority students into industrial production. Starting in 1970, the teaching of technical courses in Romanian at the vocational schools was compulsory.⁵⁹¹

As a result of these developments, in the school year 1989-1990, a total of 2,145 educational units existed, where teaching in Hungarian was organized in separate or in mixed institutions. None of the 107 high schools offered Hungarian as the only language of tuition.⁵⁹² In vocational education, only 125 pupils were instructed in Hungarian in six classes.⁵⁹³ Against the background of more than three decades of nationalist-communist educational policies, we can conclude that the stress of the Hungarian minority, with relationship to educational issues, cannot be reduced to a discourse of an intellectual elite striving for an autonomous institutional structure. The experience of the drastic reduction of Hungarian-language education represented a large part of a serious problem of a whole generation having children at school age: They were faced with the dilemma of either sending their children to Hungarian-language elementary schools, or to Romanian-language schools with the prospect of having increased chances for completing their studies at higher levels at institutions predominantly organized in Romanian. Because both the broader strata and the elite of the Hungarian minority in Romania were concerned, the question of education developed into the debate with the strongest power to mobilize the Hungarian population of Romania. This was the issue area in which the RMDSZ invested the most, and subsequently also the one on which the High Commissioner had to focus.

3.4.2 *Trying to Use the Window of Opportunity in 1990*

After 1989, the first claims presented by the RMDSZ and widely supported by the Hungarian elite and population were concerned with educational issues. In general terms, the Hungarian community asked for the re-establishment of the institutional framework of Hungarian-language education, specifically for the reopening of separate Hungarian-language high schools, Hungarian-language education in those universities where this existed before (the Institute for Medicine and Pharmacology in Târgu Mureş, and the Babeş-Bolyai University in Cluj), followed by the re-establishment of an autonomous Hungarian-language university. The final goal was to set up a complete and integrated educational system from kindergarten to university. After the adoption of the autonomy project, the reallocation of political control over this network was also pursued. At the very beginning, these initiatives were successful. In the school year 1989-1990, Hungarian-language sections existed in 107 high-schools, in the following school year, in 136 institutions, 28 of them becoming independent institutions in which instruction was organized only in Hungarian.⁵⁹⁴ Concerning vocational education in the school year 1989-90, only six Hungarian classes existed; in the following year, tuition in Hungarian was organized in 107 classes. At the primary level, the number of institutions with Hungarian as language of tuition increased by 274 classes in the school year 1990-1991, representing an increase of 12.8 per cent.⁵⁹⁵

These rapid changes entailed, however, social tensions that were soon reinforced by nationalist politics and the media. In Târgu Mureş,⁵⁹⁶ where the leadership of the Institute for Medicine and Pharmacology

⁵⁸⁷ For more details cf. Zágonyi, no year.

⁵⁸⁸ Cf. Debreczi 1981, p. 187.

⁵⁸⁹ Cf. *ibid.*, p. 188.

⁵⁹⁰ Tuition, British English for instruction.

⁵⁹¹ Cf. Illyés 1982, p. 188.

⁵⁹² Cf. Murvai 2001, p. 94.

⁵⁹³ Cf. Murvai 2000, p. 106.

⁵⁹⁴ Cf. Murvai 2001, p. 94.

⁵⁹⁵ Cf. *ibid.*

⁵⁹⁶ The events are reconstructed on the basis of information sent to the central Provisory Committee of the FSN by the writer András Sütő on 17 March, one day before the break up of the violence. Sütő was a member of the provisory

was reluctant to reinstate Hungarian-language education, the Hungarian students started protests on 8 March 1990, followed by protests from Romanian students. The local media became part of the conflict, which quickly escalated to demonstrations, mobilized a large part of the population and led to violent ethnic clashes. Such tension about the transformation of schools into purely Hungarian-language institutions existed in most cities, which had a significant share of both Hungarians and Romanians, but fortunately did not lead to violence.

After initial successes, the process of reinstating Hungarian-language institutions slowed down, and even the achieved results became endangered. Ideologically, the new power-holders fell back on the traditions of the communist era: mixed-language institutions were again considered a space where the possibility of exchange of mutual knowledge between majority and minority could be offered. The Hungarians' claim for separate institutions was labelled as separatism on ethnic grounds and not concurrent with the reconstruction of a democratic society. Practically speaking, pressures on separate Hungarian-language institutions came from many local authorities, which had achieved increased competencies in educational institutions, according to the Law on Public Administration of 1991. The mayor of Cluj and leader of the PUNR stated, in 1992, that he considered Hungarian-language high schools to be 'unnatural' on the territory of Romania.⁵⁹⁷ All this harassment by local school inspectors and government officials against minority-language schools created a sense of insecurity within the Hungarian population.⁵⁹⁸

Although the wording of the Constitution on educational minority rights (art. 32, para. 2) is unambiguous, it left one door open by stating: "The right of persons belonging to national minorities to learn their mother tongue, and their right to be educated in this language are guaranteed; the ways to exercise these rights shall be regulated by law." (art. 32, para. 3) Thus, the Constitution, though being generous in general terms, failed to give adequate guidance on a concrete solution to the problem. Against the background of rising tensions, the question of Hungarian-language education became, since 1992, the main and most urgent inter-ethnic problem in Romania. The first significant and, at least in a practical sense, partially effective step was initiated by the Project on Ethnic Relations, which brought together second-line leaders of the PDSR and the RMDSZ in mid-1993; these leaders had reached an agreement on a separate entrance quota at the Babeş-Bolyai University for Hungarian-language education in pedagogical profiles.⁵⁹⁹ Although this eased the uncertain situation within the Babeş-Bolyai University, the negotiation attempt, as such, failed because of opposition from both parties (cf. Chapter 1.2.1.4).

In that same year, Romania made efforts to get accession to the Council of Europe. The Rapporteur of the Parliamentary Assembly focused in his report of July 1993 on the necessity to settle the problems related to minority-language education stating: "Because of the often difficult relationship between Romania and its Hungarian minority, and the even more problematic situation of its gypsy minority, further confidence could be built if the Romanian Parliament adopted legislation on the rights of minorities and on education."⁶⁰⁰ The foreign minister of Romania replied:

[...] the Parliament is encouraged in its efforts to adopt as soon as possible a draft law on education, which will take care, to a larger degree, of the specific needs of national minorities, in keeping with Recommendation 1201 of the Parliamentary Assembly of the Council of Europe.⁶⁰¹

This was again reinforced by an amendment adopted by the Parliamentary Assembly of the Council of Europe, impelling more strongly the Romanian polity to "introduce as soon as possible, in keeping with the commitments they have made and with Assembly Recommendation 1201, legislation on national minorities and education."⁶⁰²

committee administering the city of Târgu Mureş. The information is reproduced in a collection of documents on the ethnic clashes of March 1990: Marosi Barna et al. 1991, pp. 25-26.

⁵⁹⁷ Cf. Mária Gál, A polgármester válaszol [The mayor answers], in: Szabadság, 5 March 1992.

⁵⁹⁸ Cf. Human Rights Watch, Ethnic Hungarians in Post-Ceausescu Romania, September 1993, p. 4.

⁵⁹⁹ Cf. RFE/RL Newslines, 21 July 1993, Romanians ethnic Hungarians agree on rights improvements.

⁶⁰⁰ CoE/PA, Doc. 6901, 19 July 1993, para. 58.

⁶⁰¹ Letter addressed by Mr Teodor Meleşcanu, Minister of State, Minister for Foreign Affairs of Romania to Mr Friedrich König, Rapporteur for Romania of the Political Affairs Committee, 22 June 1993.

⁶⁰² CoE/PA, Doc. 6901, 19 July 1993, Amendment 3 and Sub-Amendment 1 to Amendment 3.

This was the status quo when the High Commissioner issued his first set of recommendations in the autumn of 1993, focusing, *inter alia*, on education:

Priority should also be given to the draft law on education [...] In the draft law on education as recommended by the Council for Ethnic Minorities, article 110 establishes in principle the right to study and to be taught in the minority language in all forms of education. Article 111 elaborates this principle by stating "depending upon local necessities, there should be established groups, classes, sections or distinct educational units, where education in the minority language is given". The commission for education, science and youth matters of the Council for Ethnic Minorities could play a useful role in making recommendations concerning Government regulations on this subject, not only in the field of primary and secondary education, but also at the university level.⁶⁰³

The reference to the Council for National Minorities should of course strengthen this institution. In terms of substance, the HCNM suggested that a law on education, which would not exclude any level or form of minority-language education, be adopted. Further on, he suggested that educational policies be designed according to the particular needs and demands of minorities, and that the Council for National Minorities play a role in defining these needs. The recommendation on how to formulate a law, which would not limit minority-language education to certain levels and forms of education, should also be read in connection with the RMDSZ's complaints about the fact that the existing legal framework did not permit instruction in the mother tongue in vocational education, and thus limited the possibility of organizing tertiary education in the mother tongue.⁶⁰⁴

The Romanian foreign minister stated, in his immediate replay of September 1993, that "there are good chances that the Law on Education will be voted upon by the parliament in the next couple of weeks."⁶⁰⁵ In his more substantial answer of 30 May 1994, however, he had to admit: "[...] I believe that it is still premature to comment on the draft law on education, since it will undoubtedly be amended in the process of its passing through the two chambers of Parliament."⁶⁰⁶ This contradictory information on the status of the parliamentary debates reflects that the process was sinuous and complex. The slowing-down of the adoption of the law was also a result of the fact that the PDSR formalized its political relations with the extremist parties and had to take into consideration their fiercely anti-Hungarian points of view. Against this background, the situation escalated: the RMDSZ protested against Romania's admission to the Council of Europe, withdrew from the Council for National Minorities and issued its draft Law on National Minorities and Autonomous Communities. In addition, it initiated a mass campaign and, in September 1994, submitted to the Parliament its draft Law on Native-Language Education of Minorities, backed by 492,000 signatures.⁶⁰⁷

The rather defensive and contradictory answer given by Foreign Minister Meleşcanu to the HCNM's recommendation of September 1993 shows that the Romanian government's margin of manoeuvre between its international commitments, and the pressure by its extremist partners was shrinking:

As for the remarks made in the Memorandum submitted by Mr. Jansson and Mr. König on the honouring of the commitments entered into by Romania upon its accession to the Council of Europe, regarding the intention of the Romanian authorities "to abolish medical training, vocational training and the teaching of history and geography in the Hungarian language". It would be more accurate to point out that the medical and vocational training, due to its very specificity, has always been made in the official language - Romanian, in what concerns the question of teaching history and geography in minority languages, it is included under Chapter 13 of the draft law. It is therefore not a question of restricting the education for minorities which, on the contrary, is continuously expanding and which meets the principles laid down in Recommendation 1201 (1993) of the Council of Europe Parliamentary Assembly.⁶⁰⁸

⁶⁰³ HCNM letter to Meleşcanu, 9 September 1993.

⁶⁰⁴ Cf. Appendix to Az RMDSZ Memoranduma Románia felvételéről az Európa Tanácsba [Memorandum on Romania's Admission to the Council of Europe], 26 August 1993, in: RMDSZ 1994, p. 23.

⁶⁰⁵ Meleşcanu letter to the HCNM, 18 September 1993.

⁶⁰⁶ Meleşcanu letter to the HCNM, 30 May 1994.

⁶⁰⁷ Cf. RFE/RL Newslines, 20 September 1994, Romania's Hungarians want full tuition in mother tongue.

⁶⁰⁸ Meleşcanu letter to the HCNM, 30 May 1994.

Regarding the substance of Meleşcanu's letter, some errors and wrong assertions are evident. The claim that vocational and medical training had been always organized in Romanian language only, is not correct. The Institute for Medicine and Pharmacology in Târgu Mureş was established in 1948 as an institution with tuition in Hungarian only,⁶⁰⁹ and beginning in 1990, a part of the tuition was again held in Hungarian.⁶¹⁰ Hungarian-language vocational education, severely restricted during the communist period, was restarted in 1990. According to a report by the Council for National Minorities, there was one separate institution and 50 sections of vocational and post-secondary Hungarian-language education in the school year 1993-1994,⁶¹¹ offering tuition in their mother tongue to 37.7 per cent of the students of Hungarian origin enrolled in this form of education.⁶¹² The positive reference to Recommendation 1201 which, on the other hand, was openly objected to by almost all ethnic Romanian parties, can also be seen as somewhat unsubstantiated.⁶¹³ Concerning the question of the language of tuition on Romania's geography and history, the RMDSZ could not reach a consensus in the parliamentary debates. The only concession was the debate on which levels (lower secondary or secondary level)⁶¹⁴ this provision should be applied.⁶¹⁵ One single point was perceived by the RMDSZ as expanding the educational rights of the minorities. A former RMDSZ deputy declared, the inclusion of the teaching of the history of a given minority as a separate item for each minority would further their rights.⁶¹⁶

It is interesting to observe that Foreign Minister Meleşcanu answered the HCNM's detailed recommendations in a comparably detailed way. This shows, on the one hand, that the High Commissioner closely followed the development and had established a tight dialogue with the Romanian government. On the other hand, it reflects the fact that the Romanian government, in spite of or even just because of its limited margin of manoeuvre, kept an interest in such a detailed debate with the High Commissioner. In August 1994, Van der Stoel paid another visit to Romania focusing "on the minority provisions of the draft Law on Education, as passed by the Chamber of Deputies of the Parliament".⁶¹⁷ Though there were no published recommendations following this visit, news on it clearly reflected his focus on the Law on Education. He met, *inter alia*, the Minister of Justice, the Secretary General of the Romanian government in charge of minorities, and representatives of minorities including the RMDSZ, who complained "about problems facing Romania's Magyar minority, including alleged discrimination through a new education law, recently adopted by the parliament."⁶¹⁸ The news also reflects harsh attacks by Romanian nationalists on Van der Stoel:

Funar accused the CSCE official of favoring the Hungarian minority in Romania and fostering separatist tendencies among ethnic groups. He also said that van der Stoel had been misinformed on the situation in Romania by the political party of the Magyar minority, the Hungarian Democratic Federation of Romania. Funar, who is known for his tough anti-Hungarian stance, warned the CSCE commissioner not to meddle in Romania's internal affairs and urged the European Parliament to punish the HDFR for allegedly misleading European institutions.⁶¹⁹

The weakness and the split of the government could not be better demonstrated than with this statement: one part of the government was engaged in serious discussions with the HCNM, while the other one swore at him in public. The High Commissioner continued to focus on the Law on Education in 1995. In February 1995, when he discussed the Hungarian-Romanian bilateral treaty, with leading representatives of both government and Parliament, the Law on Education was also on the agenda.⁶²⁰

⁶⁰⁹ Cf. Csögör 1990, p. 15.

⁶¹⁰ Cf. Edroiu/Puşcaş 1996, p. 56.

⁶¹¹ Cf. CMN 1994, p. 42.

⁶¹² Cf. *ibid.*, p. 37.

⁶¹³ Cf. Andreescu 1995a and 1995c.

⁶¹⁴ The educational system of Romania has the following levels: primary (four years), lower secondary (four years). Thereafter children can follow the secondary (four years) level ending with the baccalaureate, or follow a form of vocational education (two to three years). Only those who passed the baccalaureate exam can enter the tertiary, university education.

⁶¹⁵ Interview with former RMDSZ deputy, member of the Commission for Education of the Chamber of Deputies in the period 1992-1996, 12 February 2002.

⁶¹⁶ *Ibid.*

⁶¹⁷ OSCE 1994, p. 14.

⁶¹⁸ RFE/RL Newline, 16 August 1994, Max van der Stoel in Romania.

⁶¹⁹ RFE/RL Newline, 18 August 1994, Romanian nationalist leader attacks CSCE envoy.

⁶²⁰ Cf. RFE/RL Newline, 25 February 1995, Van der Stoel in Bucharest.

3.4.3 *The Law on Education I: Debates until 1996*

In spite of the frequent interventions of the High Commissioner, the Law on Education (No. 84/1995) was adopted by Parliament on 28 June 1995.⁶²¹ The RMDSZ assessed the law as "in complete disregard of the national minorities' interests. This law is not only discriminative as regards the native-language education of minorities, but even more restrictive - in this respect - than the law in force under Ceaușescu."⁶²² The Hungarian alliance threatened with actions of civic disobedience,⁶²³ and the other minorities also protested.⁶²⁴ In addition, relevant international actors criticized the law: the European Parliament openly labelled it as discriminatory and asked for a revision,⁶²⁵ the US State Department assessed it as an act rescinding certain minority rights.⁶²⁶

Ironically, the nationalists were also dissatisfied. Funar issued furious declarations that "the president, the government and the parliament have been 'blackmailed' into passing the law, claiming that it paves the way for the Hungarian minority's territorial autonomy."⁶²⁷ This surprising protest from the nationalists clearly reflected "the degree to which the PDSR had become a prisoner of its own political manoeuvring."⁶²⁸ The adoption of the law and the subsequent international reactions represented in a certain sense pay back time for the PDSR, having secured its position after 1992 by allying with the nationalists. Analysts consider that voting for articles assessed as discriminatory by the RMDSZ can be seen as a nationalistic rebellion within the PDSR "against the wishes of president Iliescu, who earlier had advised PDSR deputies to accommodate Hungarian claims as much as possible."⁶²⁹

At the end of August 1995, before the beginning of the school year, the High Commissioner paid a visit to Romania. "After reviewing the legislation and meeting with Romanian officials",⁶³⁰ he issued a public statement on 1 September stressing the "considerable flexibility in its [the Law on Education] implementation."⁶³¹ The HCNM tried to control the tensions caused by the law by influencing its implementation. The Foundation on Inter-ethnic Relations organized a seminar in December 1995 to debate with participating international experts the newly adopted Law on Education.⁶³² In January 1996, the High Commissioner paid another visit to Romania in order to reinforce his recommendations made in September 1995.⁶³³ The intensity of his activity can be considered an indicator of his assessment on the potential for escalation. In this context, it was important that the RMDSZ had left the Democratic Convention just a few months before, was widely isolated within the Romanian polity and under heavy attack by the three extremist parties still in government (cf. Chapter 1.2.2.1).

The official assessment of the Law on Education by the RMDSZ, issued in July 1995, concentrated on the concern that the law offers a basis for repeating the nationalizing practices of the communist regime.⁶³⁴ The RMDSZ took the position that a number of articles curbed existing educational minority rights. Article 8, paragraph 1 stipulates: "Classes in Romanian are organised and function in each locality."⁶³⁵ The RMDSZ was concerned that this article, if enforced, could urge ethnic Hungarian parents to register their children in Romanian-language schools, and that it would have the negative financial consequences of compelling the schools to close their sections in Hungarian language in order to be able to sustain the Romanian classes.⁶³⁶ Regarding the language of instruction of the History of

⁶²¹ An authorized English version is provided by the government of Romania, Public Information Department [1995].

⁶²² RMDSZ [DAHR], Information on the Status of Commitments Entered into by Romania upon its Application for Membership in the Council of Europe as Recorded in Opinion No. 176, p. 6.

⁶²³ Cf. RFE/RL Newline, 25 July 1995, Romanian President Promulgates Education Law.

⁶²⁴ Cf. the Appeal of the Council for National Minorities issued on 21 June 1995 where the Council pleaded for favourable provisions for the education of national minorities.

⁶²⁵ Quoted in Andreescu 2000, p. 109.

⁶²⁶ Cf. U.S. Department of State: Romania Report on Human Rights Practices 1995, p. 7.

⁶²⁷ RFE/RL Newline, 13 July 1995, Update on Romania's new Education Law.

⁶²⁸ Pop-Elecheș 1999, p. 131.

⁶²⁹ Cf. *ibid.*

⁶³⁰ Kemp (Ed.) 2001, p. 238.

⁶³¹ Statement HCNM, 1 September 1995.

⁶³² Cf. CMN 1996b.

⁶³³ Cf. HCNM letter to Meleşcanu, 26 February 1996.

⁶³⁴ Cf. RMDSZ 1995a.

⁶³⁵ Law on Education 84/1995, art. 8, para. 1.

⁶³⁶ Cf. RMDSZ 1995a, p. 1.

Romanians and the Geography of Romania,⁶³⁷ the law stated: "In lower secondary schools and in secondary schools, the History of Romanians and the Geography of Romania are taught in Romanian [...]. Examination in these subjects is taken in Romanian."⁶³⁸ (art. 120, para. 2) On the various forms of vocational education, the law stated that "training is provided in Romanian, assuring as far as possible, the learning of the technical terminology also in the mother tongue."⁶³⁹ (art. 122, para. 1) These provisions were viewed by the RMDSZ as limiting the constitutional rights of minorities to receive instruction in their mother tongue, and lowering the chances of Hungarians to perform well within the educational system.

Regarding tertiary education, the law stipulated: "In public university education, sections and groups with tuition in the mother tongue may be established, upon request [...], in order to train the necessary staff for teaching and cultural-artistic activities."⁶⁴⁰ (art. 123) And: "In the public university medical education specialists training may continue to be provided in the mother tongue in the existing sections".⁶⁴¹ (art. 122, para. 2) The RMDSZ criticized that these articles permitted minority-language tertiary education only for pedagogical profiles and in existing institutions and, in this way, excluded education in other disciplines and places.⁶⁴² For admission and graduation exams, the law stated: "In the education at all levels admission and graduation exams are taken in Romanian. Admission and graduation exams may be taken in the mother-tongue for schools, classes, specialization-forms in which the teaching is provided in the respective mother-tongue, in accordance with the present law."⁶⁴³ According to the Law on Education of the communist period, the admission exams to universities could be taken, upon request, in the language in which the candidate was instructed during high school. In the light of this provision (the practice was not always respected), this "most alarming article of the law" was considered not only as restraining a right which was granted before,⁶⁴⁴ but also as lowering the chances of candidates belonging to national minorities and those instructed in high school in their mother tongue.⁶⁴⁵ Although it is true in general terms that the law grants the right to persons belonging to national minorities to "study and receive instruction in their mother tongue at all levels and forms of education in according with the present law",⁶⁴⁶ factually speaking, several articles codified the possibility to resuscitate the techniques used during communism to limit minority-language education.

In his statement of 1 September 1995, the High Commissioner referred to the provisions of international standards, "especially to the 1990 OSCE Copenhagen Document, but also to the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and to the 1995 Council of Europe Framework Convention for the Protection of National Minorities."⁶⁴⁷ We quote here so extensively to stress the lack of Recommendation 1201. This is most remarkable, for the Council of Europe was using Recommendation 1201 as an important guideline for its admission policy, and the High Commissioner had also mentioned it in one of his recommendations to Romania - however, only in relation with minority language use in public administration.⁶⁴⁸ The omission of Recommendation 1201 can be interpreted as using certain minority standards as leverage in a concrete political situation, but Recommendation 1201, highly debated in Romania at that time, would not have served this purpose. This instrumental use of international standards, in a positive sense, did not mean their relativization. Thus, the HCNM stated:

The Romanian Government has declared on several occasions that it will fully respect the international standards I have mentioned above. I expect, therefore, that the provisions of the Law on Education will be implemented in a manner which will be in conformity with these standards. In applying these interna-

⁶³⁷ Analyzing the various regulations of the last thirty years, Székely concluded that the most frequent changes in title, content, and the compulsory language of instruction occurred with these two items (1998, p. 19).

⁶³⁸ Law on Education (84/1995), art. 120, para. 2.

⁶³⁹ Ibid., art. 122, para. 1.

⁶⁴⁰ Ibid., art. 123.

⁶⁴¹ Ibid., art. 122, para. 2.

⁶⁴² Cf. RMDSZ 1995a, p. 2.

⁶⁴³ Law on Education 84/1995, art. 124.

⁶⁴⁴ Cf. the RMDSZ declaration of 16 June 1995, Közlemény [Communiqué], in: RMDSZ 2000, p. 206.

⁶⁴⁵ Cf. RMDSZ 1995a, p. 2.

⁶⁴⁶ Law on Education 84/1995, art. 118.

⁶⁴⁷ Statement HCNM, 1 September 1995.

⁶⁴⁸ Cf. HCNM letter to Meleşcanu, 9 September 1993.

tional standards there is, however, also the necessity to take into account the specific educational needs of persons belonging to national minorities, which differ from case to case.⁶⁴⁹

This wording clearly shows that the High Commissioner's recommendations are not solely based on minority rights, and it is clear, from the quote above, that he similarly considers the specific needs of minorities as legitimate and, last but not least, he takes into account the specific political situation. Concerning the substance of this recommendation, it is first of all important to note that the High Commissioner starts by saying: "I attach considerable importance to a number of clarifications and explanations which I received from the Government."⁶⁵⁰ That means that his statement does not only contain the usual unilateral recommendations by the HCNM to the government, but interpretative statements from official sources made public by the High Commissioner alone. With reference to article 8 of the Law on Education, the High Commissioner stated that it

should be read in conjunction with Article 119 of the law which states that groups, classes, sections or schools with teaching in the language of national minorities may be established, taking into account local needs, upon demand and in conformity with the law. The authorities will not try to influence in any way the choice of a school or a class by the parents or guardians of a pupil. The decision to opt for a minority language or a Romanian language school or class is left entirely to them. The provision in Article 8, paragraph 1, of the law regarding the creation of Romanian language classes will have no adverse financial consequences for minority language schools or classes.⁶⁵¹

The HCNM provided his understanding of the article as stipulating that denominational schools can get financial support from the state only if they are organizing profiles that prepare specialists for particular religious needs. He considers that the article, which allows the subsidizing of private schools, should also be applicable to denominational schools, regardless of the profiles for which they are organizing education:

The law allows the existence of private denominational schools provided they will function in accordance with Chapter XI of the Law on Education, Article 103, paragraph 4, which stipulates that private education institutions and units may get state support is also applicable to these schools. The same applies to the vocational, technical, economic, administrative, agricultural, forestall, and mountain agricultural secondary and post secondary forms of education, mentioned in Article 122 of the law.⁶⁵²

On the subjects of the History of Romanians and the Geography of Romania, the High Commissioner did not directly deal with article 120, paragraph 2, which stipulates that the language of tuition in these cases is Romanian. Instead, he focused on a more multicultural approach to the teaching of history and on the inclusion of history and traditions of the national minorities in Romanian history textbooks: "Regarding Article 120, paragraph 3, which requires that in textbooks regarding the history of Romanians the history and traditions of the national minorities of Romania will also be reflected, I have been informed that experts from the national minorities will be requested to contribute to these books."⁶⁵³ Therewith, he tried to introduce a more inclusive, multi-cultural character, even for the subject called History of *Romanians*, which already by its title represented a more ethnocentric point of view. In 1998, the High Commissioner reinforced this recommendation on the subject of history when he recommended: "Article 120(2) refers to the teaching of the history of the 'Romanians'. Considering the multiethnic character of Romania I wonder whether it would not be preferable to refer to the history of 'Romania'."⁶⁵⁴

In a more general way, the HCNM also stressed: "Persons belonging to national minorities should enjoy an education system which would roster their identity at the same time as enabling them to learn the official language and participate in the public life and development of their country. The international standards do not require minority language instruction in all subjects or at all levels of educa-

⁶⁴⁹ Statement HCNM, 1 September 1995.

⁶⁵⁰ Ibid.

⁶⁵¹ Ibid.

⁶⁵² Ibid.

⁶⁵³ Ibid.

⁶⁵⁴ HCNM letter to Pleșu, 2 March 1998.

tion."⁶⁵⁵ This statement can be interpreted as a response to the RMDSZ's criticism on the fact that these two subjects are to be taught in Romanian. Focusing on the specific function of public education, of providing language skills in the official language, although there are limits in designing policies to attain this goal, the compulsory teaching of these two subjects in Romanian was (of course only in implicit terms) not viewed as challenging these limits.

While questions related to secondary education were clearly in the centre of the High Commissioner's statement, he also dealt with tertiary education. He interpreted the article as limiting university education mainly to the training of high school teachers in the following way: "While public university education in minority languages will continue to be restricted to teacher training and the cultural/artistic field, possibilities exist for additional private university education also in other fields (Law No. 188 of 1993⁶⁵⁶)."⁶⁵⁷ With this interpretation, he stressed the fact that although the law explicitly limits instruction in minority languages in public universities, this paragraph should not be extended to private institutions, for which similar limitations are not codified. In this way, the HCNM carefully argued in favour of a certain openness of the university question. In addition, he recommended an evaluation of

the effects of the implementation of the new law at regular intervals. In the context of such a review I would recommend as a subject of special attention the addition of socio-economic subjects to those which can already be studied in the minority language at public universities. A similar recommendation was made in the past by the Romanian Council for National Minorities. Similarly, the possibilities for minority language education in vocational schools ought in my view to be subject of special attention taking into account the degree of interest shown for such education by persons belonging to national minorities.⁶⁵⁸

This call for a general revision of the law was made by referring to the specific needs of minorities. In this way, the High Commissioner clearly emphasized that standards cannot be technically exploited to limit education in minority languages, but have to be used for fulfilling needs expressed by minorities.

Article 124 of the Law on Education on the language of exams was deferred for the school year 1995.⁶⁵⁹ In January 1996, the High Commissioner visited Romania again to observe the implementation of the law; a month later he issued a further set of recommendations to Foreign Minister Meleşcanu.⁶⁶⁰ The HCNM started with a general confirmation of the substance of his statement of 1 September 1995:

First of all, I noticed that a considerable number of regulations regarding the implementation of the law are still under preparation. I do realise that this is a complicated process which requires considerable expertise. However, I express the hope that ways will be found to speed it up. I noticed in my contacts with heads of schools that the absence of a number of implementing regulations causes considerable uncertainty, even more so because the text of the law allows for a considerable flexibility in implementation.⁶⁶¹

Further on, he dealt in detail with the question of the language of exams and encouraged a further delay of the implementation of article 124: "I welcome the decision of your Government to allow the old system to continue for the current school year, and I should like to make a plea for this exemption to be continued for the 1996 university entrance examinations. I would hope, furthermore, that in the framework of a general revision of the Law in 1997 a return to the old system will be made possible."⁶⁶² In addition, the High Commissioner recommended "that a general revision of the Law will be undertaken in the beginning of 1997."⁶⁶³ This last recommendation can also be considered as a final assessment of the law. The position of the High Commissioner should be seen in the context of his recommendations

⁶⁵⁵ Statement HCNM, 1 September 1995.

⁶⁵⁶ Legea (188/1993) privind acreditarea instituțiilor de învățământ superior și recunoașterea diplomelor [Law concerning the accreditation of the educational institutions and on the official recognition of the diplomas].

⁶⁵⁷ Statement HCNM, 1 September 1995.

⁶⁵⁸ Ibid.

⁶⁵⁹ Cf. HCNM letter to Meleşcanu, 26 February 1996.

⁶⁶⁰ Cf. *ibid.*

⁶⁶¹ Ibid.

⁶⁶² Ibid.

⁶⁶³ Ibid.

of 1993 to avoid laws which formulate general limitations to education in minority languages, and to consider the educational needs expressed by the minorities.

Analysing the first six years of Romanian language policy after Ceauşescu, we see that the picture is blurry and complicated. On the one hand, relevant linguistic minority rights enshrined in the Constitution and in simple laws were widely implemented. On the other hand, some regulations fell back behind the level of what was formally granted during communism, and some rights, which were formally granted, could not be implemented as the Law on Public Administration. In the educational field, new limitations on Hungarian-language education effectively decreased the status and instrumental value of the Hungarian language. Table 7 on the development of Hungarian-language vocational and post-secondary education may serve as an example.

Table 8: Hungarian-language vocational and post-secondary education 1994-1997

School year	1994-1995 ⁶⁶⁴	1995-1996 ⁶⁶⁵	1996-1997 ⁶⁶⁶
Units	4	2	-
Sections	49	44	44
Students	6,567	6,369	3,851

In a report on the linguistic rights of minorities based on the legislation of 1996, Romania was categorized as having a language policy aimed at giving preference to the official language and promoting a differentiated linguistic status which grants basic linguistic rights in sensitive sectors to minorities, but maintains the basic inequality between the official and minority languages.⁶⁶⁷ Another socio-linguist, using a similar typology as the one presented in subchapter 3.1, concludes that the Romanian language policy on its Hungarian minority could be classified as "assimilation oriented" (b) somewhat "covert" and (c) "oscillating between prohibition and toleration".⁶⁶⁸ However, it is debatable whether assimilation tendencies and prohibition can be sustained at the same time. In our typology, we assess the language policies of the Romanian state before 1996 as a tolerant policy with restrictive reflexes. The state combined a considerable sphere of institutional freedom for the reproduction of minority languages, including the high school level, with significant limitations at the levels of tertiary and vocational education. The same is basically true for the use of minority languages in the public sphere where formal rights could not be implemented. Thus, the linguistic status of the Hungarian language in the main areas of settlement of this minority can still be seen as effective, but with a slowly decreasing tendency.

In terms of *substance*, the High Commissioner's recommendations aim at a balanced perspective between integration and identity maintenance. Admitting that the function of the educational system is to enable minority persons "to learn the official language and participate in the public life of their country",⁶⁶⁹ the recommendations also highlight the limits of promoting this goal via educational policies. The educational policy measures recommended from the perspective of enabling participation are both balanced and limited by other measures aimed at maintaining minority identity, that is, by offering both a functional role for minority languages in the public sphere and in their institutional reproduction. This objective was again balanced by the HCNM's emphasis that educational rights of minorities do not necessarily involve the right to learn "all subjects, at all levels" in the mother tongue. Taken together, the High Commissioner tried to balance different rights, interests and objectives in a multidimensional process, in which one right is always balanced by another one, on several levels.

A balanced approach, in substantial terms, is always in need of moderate political actors. Thus, the core element of the HCNM's *political strategy* was to strengthen moderate actors and to isolate radical ones

⁶⁶⁴ CMN 1995, p. 16.

⁶⁶⁵ CMN 1996b, p. 22.

⁶⁶⁶ CMN 1997, p. 56.

⁶⁶⁷ Cf. Centre de recherche en aménagement linguistique (CIRAL), université de Laval, l'aménagement linguistique dans le monde: la Roumanie, at: [www. http://www.ciral.ulaval.ca/alx/amlxmonde/accomonde.htm](http://www.ciral.ulaval.ca/alx/amlxmonde/accomonde.htm) (10 May 2002) [without year].

⁶⁶⁸ Szépe 1999, p. 71.

⁶⁶⁹ Statement HCNM, 1 September 1995.

in both camps. With this general objective, the High Commissioner employed flexible means. The classical unilateral recommendation in the form of a letter to the foreign minister, based on a preceding discussion, is one of them. The model of the HCNM's statement of 1 September 1995 represents a more sophisticated version: In this case, the High Commissioner issued a unilateral statement, but one based on "clarifications and explanations [...] received from the Government". In this way, a divided government could remain silent. At the same time, the public statement made by the High Commissioner, which was based on interpretations he received from the government's more moderate part, made it more difficult for the whole government to deviate from this course of action. With this kind of indirect co-operation between the moderate part of the government and the HCNM, both were politically successful in by-passing the extremists and delaying the implementation of a law which would have sharply increased tensions. This tactic was possible because the 1995 Law on Education did not represent the strategic line of the more moderate PDSR wing. For this wing, the law was more a kind of accident, however, one which was systematically prepared by the PDSR's co-operation with the three extremist parties. Seen from this point of view, the High Commissioner helped the government and, of course, Romania to escape from the dilemma between a pro-Western foreign policy and nationalistic domestic politics. The High Commissioner, like any mediator, could not invent or initiate the processes of political differentiation on which he built his strategy. What he could have done and did do, however, was identify, take up, forge and push ahead this process. This, the High Commissioner did in a masterly way, and this was his contribution to preparing the ground for a new political constellation.

3.4.4 *The Law on Education II: Developments after 1996*

After the 1996 elections, a new coalition government entered office and, for the first time in modern Romanian history, a party of an ethnic minority, the RMDSZ, was a part of the coalition. One of the main points of the governmental programme was to amend the Law on Education in order to comply with the claims of the RMDSZ. The coalition partners elaborated an emergency ordinance adopted by the Ciorbea cabinet in 1997.⁶⁷⁰

The modifications introduced by this emergency ordinance nearly completely satisfied the RMDSZ. Article 8, paragraph 1 of the 1995 Law on Education, which made compulsory the organization of Romanian-language classes in each locality, was modified and states that "in each locality, educational units, classes and study forms shall conduct their activity in Romanian language and if required in national minority languages."⁶⁷¹ Regarding the History of Romanians and Geography of Romania, the emergency ordinance softened the relevant paragraph: "In secondary schools, these subjects can also be taught, at request, in the mother tongue of a particular minority."⁶⁷² The issue of vocational and post-secondary education was resolved in a similar manner; the modified article stated that these forms of education "can be conducted, at request, in the mother tongue of any minority."⁶⁷³ The greatest victory of the RMDSZ, however, was related to the articles regulating tertiary education. Any limitation on particular profiles, where minority-language education can be organized, was eliminated, and the possibility to set up separate third-level institutions was granted: "Public higher education can be developed, at request, in colleges, faculties and academic institutions where teaching shall be conducted in the mother tongue of any minority."⁶⁷⁴ Multi-cultural institutions should be encouraged.⁶⁷⁵

Politically, the problems during the period 1996-2000 clearly centred on the RMDSZ's demand for a separate Hungarian-language university. The legal process was on the adoption of the amended Law on Education - a task for which the coalition needed about two and a half years. As the university issue will be dealt with in subchapter 3.4.5, we will concentrate here on the process of the adoption of the Law on Education, mentioning questions of tertiary education only as far as necessary.

⁶⁷⁰ Cf. Ordonanța de urgență (36/1997) pentru modificarea și completarea Legii învățământului No. 84/1995 [Emergency ordinance (36/1997) concerning the modification and completing of Law No. 84/1995].

⁶⁷¹ Ibid., art. 8, para. 2.

⁶⁷² Ibid., art. 120, para. 2.

⁶⁷³ Ibid., art. 122.

⁶⁷⁴ Ibid., art. 123, para. 1.

⁶⁷⁵ Cf. ibid., art. 123, para. 2.

The parliamentary debate on Emergency Ordinance No. 36/1997 was lengthy and full of contradictions. In mid-1997, the RMDSZ considered withdrawing from government, because "the coalition is procrastinating on passing amendments to the education law agreed on".⁶⁷⁶ After half a year of further debates, another coalition crisis occurred. The RMDSZ suspended its participation in government following a vote in the Senate on Emergency Ordinance No. 36/1997.⁶⁷⁷ The senate version of the Law on Education had modified several articles considered essential by the RMDSZ. The government version of article 120, paragraph 2 (on the teaching of the History of Romanians and Romania's Geography) stated that these two items could be studied, at request, at any level in the mother tongue of minorities. The version adopted by the Senate allowed this only at the primary level and at the secondary level including high-schools, however, Romanian-language instruction in these two subjects should be compulsory.⁶⁷⁸ The senate version also cut back the institutional possibilities to establish tertiary educational units in minority languages. In the emergency ordinance (in art. 123, para. 1), the possibility to set up colleges, faculties and academic institutions was granted, whereas in the senate version only "classes, study forms and colleges" and not separate faculties or academic institutions were allowed.⁶⁷⁹

The same scenario was repeated within the Chamber of Deputies in autumn 1998, when the Commission on Education rejected the articles allowing separate minority-language universities, conceding only "sections and groups within multicultural universities".⁶⁸⁰ The negative impact of this decision has to be seen in the larger context: the RMDSZ was heavily pressing the government to found a separate Hungarian-language university. In Romanian public life, this demand was met with strong opposition. Against this background and triggered by the unfavourable decision of the Commission on Education, the RMDSZ threatened again to withdraw from the coalition.⁶⁸¹ Hectic political activities took place between the leaders of the ruling coalition⁶⁸² and the presidency⁶⁸³ to find a compromise solution. Hungary, via diplomatic means, expressed its interest in "a solution meeting the demands of the Hungarian Democratic Federation of Romania to remain in the Romanian governing coalition".⁶⁸⁴ Although the political leaders were willing to handle the situation by simply including articles in the law that satisfied the RMDSZ, they were unable to do so because of the lack of discipline in the parties. The members of the Commission on Education rejected the proposals of their party leaders.⁶⁸⁵ In this situation, the RMDSZ was determined to leave the coalition. However, at the last minute, the prime minister issued the Governmental Decree No. 687/1998 of 1 October 1998 to set up a separate multicultural Hungarian-German university, a compromise endorsed by the Council of Representatives of the RMDSZ. In this way, the imminent crisis was somehow overcome.⁶⁸⁶ In addition, the RMDSZ received the promise from the presidency, that the article regulating the institutional structures of education in minority languages would be resubmitted to the relevant parliamentary commissions.⁶⁸⁷ New debates repeated the same ambiguities and tensions. The deputies accepted the idea of separate faculties, but were reluctant to grant separate institutions with instruction in the languages of minorities only. The agreed formula was that tertiary education, in the language of a national minority, could be organized in separate faculties, but only within multi-cultural universities, and the definition proposed for such institutions was "an institution in which beside the instruction in Romanian language, the

⁶⁷⁶ RFE/RL Newline, 26 June 1997, Hungarian minority party threatens to withdraw support from Romanian coalition.

⁶⁷⁷ Cf. RFE/RL Newline, 10 December 1997, Ethnic Hungarians suspend participation in Romanian government.

⁶⁷⁸ Cf. Brief information on Law of Education, Bucharest, January 1998, prepared by the Directorate of Legislation, Department for the Protection of National Minorities.

⁶⁷⁹ Cf. *ibid.*

⁶⁸⁰ RFE/RL Newline, 3 September 1998, Romanian Parliamentary Commission rejects ethnic Hungarian demands.

⁶⁸¹ Cf. RFE/RL Newline, 4 September 1998, Ethnic Hungarian party to leave the Romanian coalition.

⁶⁸² Cf. RFE/RL Newline, 9 September 1998, Romanian coalition leaders fail to compromise on Hungarian University. For the details of these debates cf. Zsigmond 1999.

⁶⁸³ Cf. RFE/RL Newline, 23 September 1998, Romanian President wants coalition to exist till 2004.

⁶⁸⁴ RFE/RL Newline, 28 September 1998, Hungary, Romania discuss minority university.

⁶⁸⁵ Interview with RMDSZ official, 13 March 1999. On the refusal of the Commission cf. RFE/RL Newline, 30 September 1998, Romania's Hungarian party to leave the coalition.

⁶⁸⁶ On the decision to found the Petöfi-Schiller (Hungarian-German) Multicultural University and the related crisis see Andreescu 1999 and Zsigmond 1999.

⁶⁸⁷ Cf. Ieri dimineața UDMR a primit garanții că totul se va rezolva [Yesterday morning RMDSZ received guarantees that everything is going to be solved], in: *Evenimentul Zilei*, 18 October 1998.

education is organised in languages with a large international circulation and in the languages of the national minorities."⁶⁸⁸

On 1 July 1999, the two chambers of the Romanian Parliament, in a joint session, finally voted on the amendments to the Law on Education. The subjects of the History of Romanians and Geography of Romania (art. 120, para. 2) are to be taught in the minority languages only at the primary level. In "middle schools and in secondary schools the History of Romanians and the Geography of Romania are taught in Romanian according to the same curricula and the same textbooks as for the grades with tuition in Romanian."⁶⁸⁹ On this subject there were no changes in the provisions of the Law of 1995. Although the High Commissioner had recommended introducing the designation "History of Romania",⁶⁹⁰ the title "History of Romanians" was kept. Contrary to this, the amended law followed the recommendation to provide education on the history and culture of national minorities in minority languages. The modified version of article 120, paragraph 4 reads: "In middle school the subject of study the history and the traditions of national minorities shall be introduced, at request, in the mother tongue." The stipulations for vocational and post-secondary education brought positive changes, allowing instruction in minority languages in all subjects. The effectiveness of the new regulations in this field can be documented by the fact that the number of students in vocational and post-secondary educational units, instructed in Hungarian, rose from 3,851 in the school year 1996-1997 (see table 7) to 8,000 in the school year 2000-2001.⁶⁹¹

Concerning specialization and institutional frames of tertiary education in minority-languages, the limitation to pedagogical profiles was removed. The Law states:

Within higher educational institutions run by the state, groups, sections, colleges, faculties teaching in mother tongue may be organised [...]. At request and according to the law multicultural higher educational institutions can be established. The languages of teaching shall be determined in the foundation law.⁶⁹²

With regard to private universities, the law states: "Persons belonging to national minorities shall have the right to set up and manage their own private higher educational institutions according to the law."⁶⁹³ On the language of various examinations, the law declared that these "can be taken in the language in which the respective subject matters have been studied".⁶⁹⁴ A novelty in the amended law is the introduction of the idea of a multi-cultural university underlined in a separate paragraph: "Institutions of higher education with multicultural structures and activities shall be encouraged for promotion of harmonious inter-ethnic relations and of integration both at national and European level."⁶⁹⁵ However, concepts such as "multicultural structure" or "multicultural activity" are nowhere defined.

Apart from minor details, the amended law corresponds to the recommendations the High Commissioner made in 1993 and 1995, and confirmed in 1996. The stipulation enforcing Romanian tuition in every locality was removed. The limitations on minority-language vocational and post-secondary instruction were also removed. The language of instruction of the History of Romanians and Geography of Romania had never been a problematic issue on the agenda of the High Commissioner; he had never insisted that these subjects be taught in minority languages. However, the amended law does not follow his recommendation to call the subject "History of Romania". Concerning tertiary education, in existing public universities, legal limitations on minority-language university training were removed. In addition, new university structures with tuition in minority languages could be established up to the level of faculties. Private universities with tuition in minority languages are explicitly allowed. The

⁶⁸⁸ Vera, Nicoleta/Teodora Georgescu, Universitatea Petőfi-Schiller, un vis prea îndepărtat. UDMR izolat în Parlament [The Petőfi-Schiller University a too distant fulfillment. The RMDSZ is isolated in Parliament], in: *Evenimentul Zilei*, 26 October 1998.

⁶⁸⁹ Law on Education No. 84/1995 republished (excerpts) under Art. II of Law No. 151/1999 on passing Government Edict of Urgency No. 36/1997 for the amendment of Law on Education No. 84/1995.

⁶⁹⁰ Cf. HCNM letter to Pleșu, 2 March 1998.

⁶⁹¹ Cf. Ministry of Public Information/Ministry of Education and Research 2001, p. 147.

⁶⁹² Law (151/1999), art. 123, para. 1.

⁶⁹³ *Ibid.*, art. 123, para. 2.

⁶⁹⁴ *Ibid.*, art. 124.

⁶⁹⁵ *Ibid.*, art. 123, para. 3.

new possibilities for the institutional development of tertiary education in minority languages, offered by the law, open up prospects for the Hungarian community to achieve (at least partially) the strategic goal of having a larger degree of institutional autonomy in administering university education. As we will see further below, these legal possibilities do not necessarily include sufficient political will to use them.

All in all, there is a remarkable coincidence between the High Commissioner's recommendations and the final outcome - the amended Law on Education. However, this correlation is, *per se*, still not proof of a causal relationship between the HCNM's activities and the results achieved. In order to approach the question on the quality of this relationship, we have to go back to the political process and ask what role the High Commissioner played within and for this process, which finally led to the law being amended. In order to do this, we have to address the political key questions as well as the main crisis points and then, in this context, analyse the High Commissioner's role.

The key question before 1996 was to further differentiate the government by widening the distance between the PDSR and its extremist partners and, at the same time, to avoid the implementation of the Law on Education which would have nearly unavoidably resulted in increasing the level of escalation. For both closely interconnected tasks, the High Commissioner represented an irreplaceable connecting link. The government alone could not have done what the High Commissioner could do in indirect co-operation with it - namely - to effectively delay the implementation of the law. Had the government acted alone in this way, it would have had to sacrifice its coalition partners - a step it was not yet ready for at that time. There was no domestic political player who could have fulfilled the High Commissioner's function. It is also difficult to imagine that another external international actor could have done what the HCNM did. Representatives of single states would have lacked the legitimacy to interfere in such a way in the internal affairs of a sovereign state, and would not have been accepted in this role. The only actor, which conceptually could have played it, the Council of Europe, was actually lacking the operational means to act on short notice in a crisis situation. It was the High Commissioner who played the key role among the external actors. This does not at all mean that other players' contributions were not important, or that they did not play a key role in other periods, as the Council of Europe actually did in 1993.

The key political question after 1996 was to keep the RMDSZ in government. In substantial terms, this meant that the focus had changed from secondary level of education to university level - two issues which will be dealt with in the next subchapter.

3.4.5 *The Intervention of the HCNM in the Problem of University Education*

During the last decade, the legal framework for education in minority languages, including the tertiary level, has significantly changed in favour of minorities. Today, training in minority languages can be organized in all fields of university education. The Law on Education, modified in 1999, allows for a large institutional autonomy in state-run educational institutions: "Within higher educational institutions run by the state, groups, sections, colleges, faculties teaching in mother tongue may be organised".⁶⁹⁶ This law also introduced the idea of multicultural universities⁶⁹⁷ as educational structures where multiple languages are used. Moreover, it allowed national minorities to set up private higher educational institutions.⁶⁹⁸

Generally speaking, these legal standards are in line with the recommendations made by the High Commissioner, apart from the one in which he declared that he was against the exclusion of public universities with tuition in minority languages. In 1998, while the Senate debated the modifications of the Law on Education of 1995, the High Commissioner stated that "it would in my view not be desirable to include in the revised Law on Education a provision excluding the possibility of a state-funded

⁶⁹⁶ Ibid., art. 123, para. 1.

⁶⁹⁷ Cf. *ibid.*, art. 123, para. 1 and 3.

⁶⁹⁸ Cf. *ibid.*, art. 123, para. 2.

university with education in a minority language."⁶⁹⁹ Although the legal standards are largely permissive and, from the perspective of the last decade, undoubtedly represent a positive development, contentious aspects related to the institutional organization of a Hungarian-language university still remain.

As already mentioned, the political elite of the Hungarian minority had advanced the idea of a comprehensive and separate educational structure in Hungarian language soon after December 1989. This was expressed with the political slogan: "education in Hungarian, from kindergarten to university".⁷⁰⁰ During the first months of 1990, some notable achievements were registered: several Hungarian-language educational institutions, previously merged with Romanian ones, were re-established up to high school level. Concerning university education, the Hungarian claims generated great resistance, representing one of the sources of violent inter-ethnic clashes in Tîrgu Mureş in March 1990. Although the objective to set up a separate Hungarian-language university was at the centre of the political rhetoric of the RMDSZ between 1990-1996,⁷⁰¹ no significant prospect of achieving this goal surfaced. The first window of opportunity for significant changes concerning the organization of Hungarian-language tertiary education became visible in 1996, when the RMDSZ became part of the governmental coalition. In this situation, one of the priorities of the RMDSZ was "the enlargement of the university education in mother tongue, the reestablishment of a Cluj-based, state-sponsored Hungarian language university".⁷⁰² As pointed out in Chapter 3.4.4, this issue became one of the most contentious subjects between the RMDSZ and its coalition partners between 1996 and 2000.

The High Commissioner followed this process very closely. He followed the legal debates as well as those on concrete institutional projects. He not only intervened in the process of negotiating the modifications of the Law on Education, but also started a series of targeted initiatives to find a satisfactory solution for the issue of Hungarian-language tertiary education. In order to assess the effectiveness of his interventions, we have to start with the broader question on how university training in various languages developed in Romania after 1989.

3.4.5.1 The Development of the Babeş-Bolyai University in Cluj until 1996

The Babeş-Bolyai University was created in 1959 by merging the Romanian Babeş and the Hungarian Bolyai University. Both institutions were founded in 1945, both had an evident continuity with pre-existent institutions and both share an agitated history, influenced by changes of borders in the period between 1918 and 1940. The predecessor of the Hungarian-language university⁷⁰³ (I Ferencz József Tudományegyetem) was moved in 1918 to Szeged and reinstalled in Cluj in 1940. The Romanian university set up in 1919 (Universitatea Regele Ferdinand I. din Cluj) and moved to Sibiu in autumn 1940, when the Hungarian army occupied Cluj. Against this background, the year 1945 was 'a first' in the history of this university centre. One Hungarian and one Romanian institution were functioning parallel to one another; neither one was substituting the other. Ethnic Hungarians viewed the unification of these two institutions in 1959 as a major setback, but, in view of the extensive ideological control and authoritarian state and party interventions, protests, including the suicide of several Hungarian professors, were seen as rather symbolic.⁷⁰⁴ As indicated earlier, the merger of these institutions was followed by a decrease in Hungarian-language education.

⁶⁹⁹ Letter HCNM to Pleşu, 2 March 1998.

⁷⁰⁰ This slogan can be found in almost all RMDSZ documents starting with December 1989, and functioned in public communication as a synthetic expression of the Hungarian minority's strategic goal in the field of mother-tongue education.

⁷⁰¹ Cf. A Romániai Magyar Demokrata Szövetség Memoranduma Románia felvételéről az Európa Tanácsba [The Memorandum of the RMDSZ on Romania's admission to the Council of Europe], in: RMDSZ 2000, p. 144; cf. also: RMDSZ törvénytervezet a nemzeti kisebbségekről és autonóm közösségekről [RMDSZ Draft Law Concerning the National Minorities and Autonomous Communities], reproduced in: Andreescu/Stăn/Weber 1993.

⁷⁰² Cf. A Romániai Magyar Demokrata Szövetség Kormánykoalíciós cselekvési prioritásai' [The priorities of the RMDSZ within the governmental coalition], reproduced in: Bárdi/Éger 2000, pp. 195-200, here p. 199.

⁷⁰³ For a short "History of the Hungarian University of Cluj (Kolozsvár)" in English cf. <http://www.htmh.hu/hatteranyagok/cluj.htm> (12 May 2002).

⁷⁰⁴ Cf. Vince 1999, p. 259.

Beginning in 1990, the new university leadership reassumed the tradition of Hungarian-language education and started to reorganize sections with Hungarian as the language of tuition in those specializations where they had traditionally existed.⁷⁰⁵ This process was developing in spite of the fact that the Hungarian university teachers - a large part of them organized in the Bolyai association⁷⁰⁶ - and RMDSZ politicians publicly stated that the strategic goal of the Hungarian community was to reinstate the separate Bolyai University. Therefore, two parallel processes started: On the one hand, a process of developing Hungarian-language instruction was initiated within the Babeş-Bolyai University (BBU); on the other hand, the Hungarian elite unceasingly promoted the project of an autonomous Hungarian-language university. Until the beginning of 1997, the Hungarian intellectual and political elite considered the frame offered by the development of Hungarian-language education at the BBU as transitory, a mere preparatory stage for becoming a separate institution.⁷⁰⁷ Although perceived in this way, the process of setting up Hungarian-language instruction within the BBU was a reality. And this was a fact which needed to be dealt with. In this context, the Hungarian elite was not only a passive beneficiary of these developments, but also an active participant of the changes that were taking place.⁷⁰⁸

This assessment is confirmed by the manner in which the process of institutionalization of Hungarian-language education at the BBU was started in 1993. Two main problems can be identified in this context: one is related to the number of students that were to be admitted to the Hungarian-language sections; the other one concerns the development of new profiles and specializations in this language. The problem with the number of students was that, in order to organize a section in Hungarian language within a profile, a minimum number of seven students willing to study in Hungarian had to be admitted. The admittance exams were on the same subjects and administered in the respective language; that is, Hungarian students had to pass their exams in Hungarian and the Romanian students in Romanian. As Hungarian teachers, who had an interest in assuring the minimal number (in order to have the possibility to run a section), were the ones who mainly evaluated the exams of the Hungarian students, suspicion arose. Most of these quarrels were solved by informal negotiations by the teachers directly involved. When the university's educational offer in minority languages increased, in terms of new profiles and specializations, another problem arose: Which specializations should be taught in Hungarian?

*Table 9: Number and ratio of specializations with separate admittance quota in Hungarian-language sections 1993-2000*⁷⁰⁹

	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00
In Romanian	44	55	59	62	71	77	86
In Hungarian	15	19	23	26	30	37	41
Ratio Romanian/ Hungarian	2.93	2.89	2.56	2.38	2.36	2.08	2.09

A first solution to these problems was found in July 1993 within the frame of an agreement between the RMDSZ and the PDSR, which had met at Neptun for informal negotiations between second-line leaders (cf. Chapter 1.2.1.4). According to this agreement, 300 students should be admitted to the BBU to sections with pedagogical and cultural profiles and tuition in Hungarian.⁷¹⁰ Although the political process between the RMDSZ and the PDSR failed to continue, this concrete result was respected and started a process of the institutionalization of Hungarian-language education within the BBU. A separate entrance quota was established for the sections with instruction in Hungarian. More-

⁷⁰⁵ The developments within the Babeş-Bolyai University between 1990 and 1996 were reconstructed in a debate between six teachers of this university held in January 2002. We will treat the statements made in this discussion as individual interviews.

⁷⁰⁶ A Cluj-based association of university teachers and intellectuals, which was created with the main goal of mobilizing for the re-establishment of the autonomous Hungarian-language Bolyai University (cf. Magyari 1995).

⁷⁰⁷ Interview with a Hungarian university teacher of BBU, 22 January 2002.

⁷⁰⁸ Interview with a Romanian university teacher of BBU, 22 January 2002.

⁷⁰⁹ Cf. Marga 2000, p. 70.

⁷¹⁰ Cf. RFE/RL Newline, 21 July 1993, Romanians, ethnic Hungarians, agree on rights improvements.

over, the figure of 300 was not considered rigid and increased in time,⁷¹¹ in spite of the fact that the PDSR was in power until 1996 in a coalition with nationalistic parties. The number of specializations with Hungarian as the language of instruction increased both in absolute and in relative terms (see table 8).

The political agreement of July 1993 inaugurated the process of institutional reforms within the BBU concerning the development of Hungarian-language education. Although this was re-established immediately after 1989, the development, both in quantitative terms and in institutional design, reached strategic importance only after 1993. This is reflected in the fact that the number of students registered in Hungarian sections as well as the number of Hungarian-language specializations increased even in the period between 1993 and 1996. Moreover, Hungarian teachers were included in the various levels of the university leadership up to the vice rector. This co-option, though it happened without a closely defined mandate for handling the Hungarian-language instruction process, had an important symbolic content. This was especially the case against the background of open nationalism, which was dominating the polity of this period, a situation which created a sense of normality in Hungarian-Romanian relations within the Babeş-Bolyai University.⁷¹²

3.4.5.2 *Negotiating Multiculturalism*

The chance for substantive reforms in Hungarian-language education within the BBU manifested itself at the beginning of 1997, after the RMDSZ had been included in the coalition, and the issue of reforming Hungarian-language university education was put on the government's agenda. Whereas large parts of Hungarian society and its polity demanded a separate university, the ethnic Romanian partners within the governing coalition favoured far-reaching institutional changes within the BBU.⁷¹³ Hungarian NGOs, especially the Bolyai Association⁷¹⁴ and the Hungarian Students Association of Cluj,⁷¹⁵ mobilized themselves to take the political steps necessary to reach the final goal of a separate Hungarian-language university. In a round-table discussion organized by the students association, RMDSZ President Markó supported Severin's approach to some degree, stating that, following an agreement within the coalition, institutional changes within the BBU would be promoted as a first step, and only thereafter would the Hungarian-language university be set up.⁷¹⁶ This seemed to be an acceptable approach for some of the representatives of the ethnic Hungarian NGOs. The President of the Bolyai Association argued in an open letter that the coalition should first acknowledge a separate Hungarian-language university in a political declaration as a legitimate claim by the Hungarian community of Romania. Admitting that the splitting of the BBU was a difficult and somewhat undesirable solution, he further considered that the practical steps should be tactfully weighed and made part of a larger political and practical preparation process.⁷¹⁷ The corporate opinion of this association was firmer than that of its president: the general assembly of the Bolyai Association formulated a statement asking the RMDSZ to press for a law which explicitly provided for the establishment of a separate Hungarian-language university in Cluj.⁷¹⁸

⁷¹¹ Interview with an official responsible for minorities in the government 1993-1996, 26 November 2001.

⁷¹² Interview with a Hungarian university teacher of BBU, 22 January 2002.

⁷¹³ Foreign Minister Severin stated in a meeting with Van der Stoel "that the problem of the Babes-Bolyai university in Cluj should be solved by setting up a Romanian and a Hungarian department within the university, rather than creating two ethnic universities." (RFE/RL Newslines, 2 April 1997, Van der Stoel in Bucharest).

⁷¹⁴ Cf. the declaration of the Bolyai Association summarized in: Szabadság, 3 February 1997.

⁷¹⁵ Cf. P. Szabó, Kerekasztal-megbeszélés az önálló magyar egyetemről [Round-table discussions on the autonomous Hungarian language university], in: Szabadság, 21 February 1997.

⁷¹⁶ Ibid.

⁷¹⁷ Cf. A. Horváth, A Bolyai Társaság elnökének a levele a Szabadelvű Körhöz [The letter of the president of the Bolyai Association to the Liberal platform of the RMDSZ], in: Szabadság, 10 February 1997. In the same issue of this newspaper an article by another ethnic Hungarian academic was arguing for reconsidering the Hungarian ethno-nationalist framework for Hungarian-language tertiary education (cf. N. Magyar, Universitas és környezete. A magyar egyetem-eszme beágyazottsága a kisebbségi elit diskurzusába [The idea of the university and its conditions. The embodiment of the idea of the Hungarian University in the discourses of the minority elite], in: Szabadság, 10 February 1997).

⁷¹⁸ Cf. Zs. Gyenge, A Bolyai Társaság közgyűlése. Kéri a Bolyai egyetem törvénybe iktatását [The general assembly of the Bolyai Association. They ask for a legal provision on the establishment of the Bolyai University], in: Szabadság, 10 March 1997.

Politicians reacted to the pressure of civil society. Prime Minister Ciorbea had declared before his official visit to Hungary that, after the modification of the Law on Education, one of the first measures would be to create a separate Hungarian-language subdivision - a group of several faculties within the BBU.⁷¹⁹ Ciorbea repeated this statement during his meeting with the Hungarian President Göncz.⁷²⁰ Against the background of critical reactions to Ciorbea's declaration, Romania's President Constantinescu issued another, more cautious statement arguing that the issue of institutional reforms within the BBU should be the subject of further debates with the Senate of the university.⁷²¹ After this declaration, the management staff of the BBU took over the initiative. After a staff meeting with prominent ethnic Romanian politicians,⁷²² the rector of the university, Marga, declared that a special committee from the university would decide on the institutional reforms. He added that the various alternatives, which had been made public so far, were only personal opinions and that the committee formed by the Romanian, Hungarian and German teachers of the university would elaborate the official point of view.⁷²³ The prime minister also confirmed this approach.⁷²⁴

These developments have been fleshed out in detail to illustrate the complexity and the high conflict potential of the university issue. On the one hand, the new government was afraid of taking the radical step of establishing a Hungarian-language university; on the other hand, its tactic to carry out an institutional reform within the BBU transferred the problem to the local level and created another complex situation. This created tensions which one would have preferred to avoid. The university issue and the public actors' approach reflected the manner in which both the Hungarian and the Romanian elite defined the concept of university. They defined it as "a mean for preserving and developing the particular ethnic and national identities".⁷²⁵ In the context of such a tight relationship between university and national identity, the struggle for the university went far beyond educational issues and has become a symbolic expression of the fight for the scope and parameters of those institutional entitlements minorities can obtain when producing and reproducing their particular ethnic identities. Against this background, the proposal to grant the Hungarian minority's large-scale institutional entitlements within an existing university aroused the suspicion of the elites of both sides. Ethnic Romanians considered it an overture, an approach made in order to open the door to complete institutional separation; ethnic Hungarians viewed it with suspicion, as a substitute for a separate institution.⁷²⁶

In this context, the idea of an alternative model which promised a more pragmatic approach and which was also backed by a part of the Hungarian elite emerged. This alternative - multiculturalism - dominated the agenda for the following years, permitting politics to quickly retreat, and lowering, in this way, its image costs and thus leaving the issue at the level of the BBU. As the academic community took on the initiative, the debates focused on the appropriate structures of relations between the Hungarian and Romanian parts of the institution. This debate on the various models of integration became increasingly linked to the concept of multiculturalism; that is, both elites were engaged in negotiating the substance of this concept while trying to define it in a manner that would favour their particular projects.⁷²⁷ The *Romanian* concept focused on increasing the educational course offerings in Hungarian and on providing a higher degree of self-administration in the organizational process of Hungarian-language education,⁷²⁸ but was not based on parallel structures. The *Hungarian* approach

⁷¹⁹ Cf. n.a., Magyarországi látogatás előtt Victor Ciorbea nyilatkozott az MTI-nek [Before his visit in Hungary Victor Ciorbea declared to the MTI], in: Szabadság, 10 March 1997.

⁷²⁰ Cf. n.a., Együttműködési modell a térség többi országa számára is. Victor Ciorbea magyarországi látogatása [A model of co-operation for the other countries of the region. The visit of Victor Ciorbea in Hungary], in: Szabadság, 13 March 1997.

⁷²¹ Cf. n.a., Constantinescu elnök természetesnek tekinti magyar tagozat létesítését a Babeş-Bolyai Tudományegyetemen [President Constantinescu considers the establishment of a Hungarian-language section at the Babeş-Bolyai University natural], in: Szabadság, 14 March 1997.

⁷²² Cf. n.a., Egy vezetőség, két tagozat [One leadership, two sections], in: Szabadság, 18 March 1997.

⁷²³ Cf. n.a., Újabb rektori vélemény [A most recent opinion of the rector], in: Szabadság, 22 March 1997.

⁷²⁴ Cf. n.a., A kormány nem választja szét az egyetemet. Victor Ciorbea Kolozsváron [The government will not split the university. Victor Ciorbea at Cluj], in: Szabadság, 24 March 1997.

⁷²⁵ Magyari 1997a, p. 234.

⁷²⁶ Tőkés declared that the reform initiatives within the Babeş-Bolyai are meant to deviate the attention from the real issue, the establishment of the separate Bolyai University (cf. n.a., A magyar történelmi egyházfők állásfoglalása a Bolyai Egyetem ügyében [The standpoint of the leaders of the Hungarian historical churches on the problem of the Bolyai University], in: Szabadság, 7 April 1997).

⁷²⁷ Cf. Magyari 1997b.

⁷²⁸ Cf. Marga 1998, p. 80.

focused on the multicultural character of Romanian society, considering separate institutional structures as an adequate reflection of this reality.⁷²⁹ Two vice rectors of the university represented these two positions.

The Szilágyi Plan⁷³⁰ (named after the Hungarian vice rector) proposed a solution at the level of the primary structures of the university, namely, the departments and faculties integrated by the Senate. Concretely, he suggested that three Hungarian-language faculties⁷³¹ for the natural sciences, social sciences, and law and economy, as well as parallel structures for the Romanian and the Hungarian part of the university integrated by the Senate, be created. Concerning the decision-making process, this would have presented problems at the level of the Senate only, where according to the Szilágyi Plan, the representatives of the Hungarian faculties would have the right to veto all issues concerning Hungarian-language instruction.

The Agachi Plan (named after the Romanian chancellor of the BBU)⁷³² proposed the institutionalization of Hungarian-language education at the level of secondary structures. Concretely, he suggested the creation of particular lines of study⁷³³ for instruction in the Hungarian language managed by the academic staff teaching in Hungarian in a given department. Regarding decision-making, the Agachi Plan suggested proportional representation of both groups within the various decision-making bodies, with the possibility of addressing contentious issues at the level of the Senate in a parity commission made up of an equal number of Romanian and Hungarian representatives.

The difference between the two alternatives, in terms of institutional power, can be described as concentrated versus diffuse power or authority. The particular lines of study within the departments and the affirmative action of promoting Hungarians in the various positions of the decision-making process offers them some authority in those positions, but less authority in terms of accessing resources and achieving the particular goals of the Hungarian community. Another aspect is that relations between the persons occupying these positions are informal and, as such, do not represent a formally recognized and institutionalized authority. These persons are able to administrate the problems appearing in the routine process of instruction, but have fewer possibilities of setting up their own agenda and promoting wider-ranging strategic goals. The parity commission's function is mainly that of a safety net which is used to defuse tensions produced by the system. The alternative proposal for founding Hungarian faculties intended to introduce hierarchical structures according to authority and power. The faculties' competencies are defined in terms of "strong", and the general authority and access to resources within a faculty is what makes it possible to set one's own agenda, aimed at long-term developments and the promotion of new profiles. The institutionalization of the veto at the level of Senate was designed to assure that the majority could not outvote the minority.

The first round of debates in the academic commission ended up with a declaration in which the commission confirmed the multicultural character of the BBU and adopted a plan for the development of the multicultural structures of the university.⁷³⁴ The declaration refers, in general terms, to the autonomy of the instruction process in Romanian, Hungarian and German, acknowledging the request on behalf of the Hungarians to debate the structural changes after the adoption of the modified Law on

⁷²⁹ Cf. Marga 1997, p. 163.

⁷³⁰ The basis of this plan was a petition signed by 83 Hungarian professors (n.a., A Babeş-Bolyai Tudományegyetem 83 magyar tanárának álláspontja [The point of view of 83 Hungarian professors of Babeş-Bolyai University], reprinted in: Szabadság, 12 March 1997). Cf. also a brief synthesis of the substance of the plan in: Sz.K., Négy magyar karért kardoskodunk [We are fighting for four Hungarian faculties], in: Szabadság, 2 April 1997.

⁷³¹ In total five, because two theological faculties, a Roman-Catholic and a Protestant are already integrated in the university as separate faculties with instruction in Hungarian only.

⁷³² For the Agachi-plan see: S. Agachi, Situația prezentă a studiilor în limba maghiară la universitatea "Babeş-Bolyai" Propuneri de soluții [The present situation of the studies in Hungarian language at Babeş-Bolyai University. Proposals for solutions], in: Conviețuirea 1997/2-3; cf. online version <http://www.jgytf.u-szeged.hu/tanszek/roman/kiadvany.htm> (11 May, 2002).

⁷³³ The term "line of education" or "line of study" designates a sub-unit of a department or a faculty gathering the members of the department involved in the instruction in a given language.

⁷³⁴ Cf. Babeş-Bolyai Egyetem rektorátusának közleménye [The communiqué of the rectorate of the Babeş-Bolyai University], in: Szabadság, 7 April 1997.

Education of 1995.⁷³⁵ As this question was still pending until the issue was resolved in 1999,⁷³⁶ the government, after being pressured by the RMDSZ⁷³⁷, issued on 14 July 1997 the Emergency Ordinance 36/1997, which contained modifications of the Law on Education, including the possibility to set up separate universities and faculties with tuition in minority languages. This happened precisely at the beginning of the summer break. Thus, any substantive debate and decision had to be postponed until autumn.

The administrative process of institutionalizing multiculturalism was again threatened in the autumn of 1997 by the fact that "a majority of senators representing the largest coalition party, the National Peasant Party Christian Democratic (PNȚCD) opposes the cabinet's intention to have the amendments adopted by Government ordinance".⁷³⁸ It became more and more clear that the government's reform plans for Hungarian-language university education were not supported by a large part of the politicians from the coalition. When Andrei Marga, the Rector of the BBU, was appointed as Minister of Education in 1997, he declared in a parliamentary commission that he favoured an integrated multicultural approach rather than a non-European formula such as segregation.⁷³⁹ A few days later, the Senate rejected the provisions of the government's Emergency Ordinance No. 36/1997.⁷⁴⁰ President Constantinescu assured RMDSZ President Markó that he would not sign a law which did not include the possibility of setting up a separate Hungarian-language university.⁷⁴¹ The episode became typical for the following one-and-a-half years, the coalition being unable to find a compromise on tertiary education in minority languages. This uncertainty about the final version of the Law on Education blocked negotiations on the institutionalization of multicultural structures within the BBU. Until 1999, when this law was finally adopted, it was senseless to restart the negotiations. This does not mean that some elements of institutional change were not advancing. On an informal basis, some positive measures were implemented, which were more in the spirit of the above-mentioned Agachi Plan. The "line leaders"⁷⁴² were elected and efforts were made to have proportional representation.

Meanwhile, some of the limitations of this approach became clearer. Basically, the Agachi Plan was conceived to consolidate and formalize the status quo of more or less accustomed relations within the departments where Hungarian-language education existed.⁷⁴³ This was achieved by vesting the representatives of the Hungarian teachers with some administrative authority to enable them to manage Hungarian-language instruction in a given department or faculty. Concerning the various strategic goals, for example, the initiation of a new Hungarian lines of study in faculties where they did not yet exist (especially in the Law and Economic Faculties), no formal mechanism had been established. The further development of Hungarian-language education became the subject of complex negotiations and pressures, and reflected, in this way, a general weakness of the system in raising several problematic aspects: Who has the authority to put new strategic goals on the agenda? What rules are to be applied if important actors (faculties, departments) are not willing to develop Hungarian-language education? This was especially the case in the Law Faculty. Juridical education of ethnic Hungarians was generally a problematic issue. Ethnic Hungarians are severely underrepresented among students of law at country level. According to Zágoni, who unfortunately does not indicate the sources of his data, 11,932 students were studying law at public universities in 1994, and only 98 (0.8 per cent) of them were ethnic Hungarians.⁷⁴⁴ The demand to have a separate Hungarian-language section, or at least a

⁷³⁵ At that time, this law did not accept the solution proposed by the Szilágyi plan, namely, the setting up of separate faculties with tuition in languages other than Romanian.

⁷³⁶ In a public debate organized in June 1997, the president of the Bolyai Association declared that the developments within the Babeş-Bolyai had been suspended and that they were waiting for the modification of the law on education (cf. n.a., Bolyai vita. A törvényre és Madridra várva [The Bolyai debate. Waiting for the law and for Madrid], in: Szabadság, 9 June 1997).

⁷³⁷ Cf. RFE/RL Newline, 26 June 1997, Hungarian minority party threatens to withdraw support from Romanian coalition.

⁷³⁸ Ibid.

⁷³⁹ Cf. History of the Hungarian University in Cluj, quoted above (footnote 703).

⁷⁴⁰ Cf. RFE/RL Newline, 10 December 1997, Ethnic Hungarians suspend participation in Romanian Government.

⁷⁴¹ Cf. History of the Hungarian University in Cluj, quoted above (footnote 703).

⁷⁴² The name used for persons responsible for the organization of Hungarian-language instruction at the level of a faculty or department.

⁷⁴³ Cf. Andreescu 1999, p. 194.

⁷⁴⁴ Cf. Jenő Zágoni, The Education Laws in Romanian and Their Bearing on Hungarians (1918-1995), no year, at: <http://www.hhrf.org.minoritiesresearch/mr12.htm> (24 May 2002).

separate entrance quota for Hungarian students at the Law Faculty was opposed by the Dean of this faculty, who argued that such a measure was not necessary, for there were only 14 Hungarian students registered there.⁷⁴⁵ The vicious logic of this argument is obvious.

In addition to the dissatisfaction with the functional aspect of the multicultural structures, disappointments occurring within the process of negotiations have also had an important psychological dimension. The emerging multicultural structures are the result of a process in which the Hungarian part perceived itself as being constantly in the loser position. Thus, continuously unfulfilled expectations rarely favour a flexible approach.⁷⁴⁶ The Hungarian side started to make negotiations for a separate university, and then made a compromise by accepting to negotiate an institutional formula on a larger sphere of autonomy within the BBU. When the creation of separate faculties was negotiated, the Hungarian side was met with resistance by a significant part of the Romanian elite, including their academic peers. In this context of hesitation by both the Romanian polity and academic circles, the position of institutionalizing multiculturalism at the level of the secondary structures of the university seemed to override the original idea which had already in the beginning been considered a compromise. The negotiation process did not satisfy Hungarian demands, neither in substantive nor in procedural terms. The institutional mechanisms of specific promotion of interests were perceived as diffuse and not anchored in strong structures. In procedural terms, dissatisfaction was caused by the course of negotiations in which the Hungarian side was faced with the ongoing rejection of its proposals and the imposition of alternatives from their counterparts. Against this background of the series of negotiations, which were perceived in terms of a win-lose rather than a win-win situation, it became clear that the process of reforming Hungarian-language university education would not end with this first round of negotiations.

In this situation, it was the High Commissioner who took the initiative to restart the process of elaborating a solution to the problem of Hungarian-language third-level education. The first attempt was a meeting at Snagov held at the occasion of the HCNM's visit in Romania in February 1998. Participants of the meeting included politicians from the governing coalition, university teachers from the BBU and foreign specialists in multicultural education. A representative of the RMDSZ, who was participating in the meeting, assessed it as having failed to make a serious breakthrough, while the Romanian participants were not willing to consent to any power-sharing within the BBU.⁷⁴⁷ After this initiative, the High Commissioner proposed to Foreign Minister Pleșu the forming of a commission of independent experts and specialists of the Council of Europe to assess the situation and to suggest solutions.⁷⁴⁸ Pleșu, who was confident that a solution could be reached within the coalition, politely declined the High Commissioner's offer.⁷⁴⁹

After the High Commissioner attempted to facilitate a solution, the general political climate changed again. A new government under Radu Vasile was formed in April 1998 after a rather long coalition crisis. The new prime minister promised in his programme to promote multicultural universities and, depending on the need, separate institutions in minority languages.⁷⁵⁰ However, the negotiations on the Law on Education continued in the Chamber of Deputies, repeating in mid-1998 a similar scenario to the one in the Senate in December 1997.⁷⁵¹ As an end to the legislative process was not foreseeable, the RMDSZ submitted a draft law for setting up a separate Hungarian-language university in Cluj, threatening to finish its participation in the coalition if tangible results were not achieved.⁷⁵² Subsequently, the leaders of the coalition parties gathered and, headed by the prime minister, signed on 10 June 1998 an agreement fixing short-term objectives; included among other things were the following:

⁷⁴⁵ Cf. n.a., *Ellenzik a magyar jogi tagozatot* [Opposing the Hungarian Law Section], in: *Szabadság*, 11 April 1997.

⁷⁴⁶ Cf. Esman 1991, p. 61.

⁷⁴⁷ Interview with an official of the Department for the Protection of National Minorities, 17 September 1999.

⁷⁴⁸ Cf. HCNM Letter to Pleșu, 2 March 1998.

⁷⁴⁹ Cf. Pleșu letter to the HCNM, 30 March 1998.

⁷⁵⁰ Cf. History of the Hungarian University in Cluj, cited above (footnote 703).

⁷⁵¹ Cf. *ibid.*; cf. also RFE/RL Newline, 3 September 1998, Romanian parliamentary commission rejects ethnic Hungarian demands.

⁷⁵² Cf. RFE/RL Newline, 1 June 1998, Romania's ethnic Hungarians demand University in Cluj; RFE/RL Newline, 17 June 1998, Tensions continue over Hungarian language university in Romania.

By June 25 the report concerning Urgency Government Decree No. 36 amending the Act on Education will be finalised in compliance with the government program and the outstanding agreements;
 The Government will in the current month adopt the statutory laws indispensable for the creation of the faculty of Hungarian language, literature and ethnographic research within Babeş-Bolyai University as well as the branch for musical pedagogues with Hungarian language of education to be formed within Gheorghe Dima Musical Academy;
 The Government will pass this month [June] those statutory laws that are necessary to set up a committee to explore the modalities of establishing a Hungarian State University.⁷⁵³

None of these points were implemented within the agreed deadlines; the Hungarian-language media attributed this fact to the resistance of the leaders of the affected institutions.⁷⁵⁴ Furthermore, the prospects for positive change were disappearing. Minister Marga declared that the separation of the Bolyai from the Babeş University and the separation of Hungarian- from Romanian-language education at the Gheorghe Dima Musical Academy were not in line with the law.⁷⁵⁵ Consequently, he refused the idea of a separate university, arguing that multiculturalism, as practiced at the BBU, proved to be a "viable solution".⁷⁵⁶ Although there were voices within the Romanian polity favouring a "positive solution" for the problem of a Hungarian university, as declared by the chief counselor of the Romanian President Zoe Petre,⁷⁵⁷ they were in minority. The president of the Senate, Petre Roman, turned down the declaration of the presidential counselor, stating that the multicultural model of BBU was functioning adequately, and that there was therefore no need to separate the institution.⁷⁵⁸

Tension developed within the Gheorghe Dima Musical Academy. Hungarian teachers there were willing to initiate sections with instruction in Hungarian as foreseen in the agreement of 10 June. However, they met resistance along the way. The stipulations on the admittance exams in Hungarian, in Emergency Ordinance 36/1997, were also not being implemented in universities where ethnic Hungarians were applying. This was the case at the Medical and Pharmaceutical University of Cluj where the university staff was not willing to organize an admittance exam in Hungarian.⁷⁵⁹ The answer to the problem did not calm down the situation: Minister Marga declined a firm intervention of the central government, declaring that the responsibility to fulfill these claims rested on the institution.⁷⁶⁰

In this climate of tension, ambiguity and uncertainty, a commission of specialists (according to the agreement of 10 June) was set up to explore the procedures for establishing a Hungarian State University.⁷⁶¹ The commission started its work on 1 September 1998, but, after its first meeting, the Committee on Education of the Chamber of Deputies amended the text of the Emergency Ordinance on Education, allowing only "sections and groups within multicultural universities".⁷⁶² The Deputy Aureliu Emil Sandulescu of the ruling PNȚCD, who had proposed this amendment, said it should "emphasise that Romania is a unitary state, not a federal one", adding that a Hungarian-language state university would mean "a first step toward federalism."⁷⁶³ This statement supported suspicions within the Hungarian community that multiculturalism was primarily used as an ideological tool to limit the Hungarians' claims for institutional separation.⁷⁶⁴

⁷⁵³ History of the Hungarian University in Cluj, quoted above (footnote 703).

⁷⁵⁴ Cf. n.a., Andrei Marga szeparatizmust kiáltva nemet mond a magyar egyetemre [Andrei Marga considers it as separatism, says no to the Hungarian university], in: Szabadság, 1 August 1998.

⁷⁵⁵ Cf. *ibid.*; see also the compilation of declarations of various representatives of the two institutions, in: n.a., Határozottab fellépést kérnek a magyar egyetem ellen [They ask for a more firm stance against the Hungarian university], in: Szabadság, 30 July 1998.

⁷⁵⁶ RFE/RL Newline, 31 July 1998, Romanian education minister still opposed to Hungarian university.

⁷⁵⁷ N.a., Petre Roman továbbra is ellenzi a Bolyai-egyetemet [Petre Roman still opposed to Bolyai university], in: Szabadság, 28 July 1998.

⁷⁵⁸ Cf. *ibid.*

⁷⁵⁹ Cf. Edit Kerekes, Marga válaszára várva. Egyelőre nioncs magyar felvételi az orvosin [Waiting for Marga's answer. For the time being there will be no Hungarian-language admittance exam at the medical university], in: Szabadság, 12 August 1998.

⁷⁶⁰ Cf. Edit Kerekes, Marga javaslatára. Kötő József találkozik az orvosi egyetem rektorával [On Marga's suggestion József Kötő will meet the rector of the medical university], in: Szabadság, 14 August 1998.

⁷⁶¹ Cf. Hotărârea Guvernului [Governmental Decision] No. 378/1998, 17 July 1998.

⁷⁶² RFE/RL Newline, 3 September 1998, Romanian parliamentary commission rejects ethnic Hungarians demands.

⁷⁶³ *Ibid.*

⁷⁶⁴ Cf. Horváth 1999, pp. 9-10.

On 5 September 1998, the RMDSZ Council of Representatives - the enlarged decision-making body - issued an ultimatum saying that if the Parliament did not pass the Law on Education as amended by Emergency Ordinance 36/1997 by 31 September 1998, the RMDSZ would leave the coalition.⁷⁶⁵ This threat, though not the first one since 1996, was the most serious one, due to the actual circumstances. The High Commissioner, who had urged President Constantinescu to find a solution to keep the RMDSZ in government, recognized this.⁷⁶⁶ Various solutions were discussed: One proposal on a multicultural university - most were discussing a Hungarian and a German component located outside of Cluj - was issued on 8 September and was the most frequently talked about.⁷⁶⁷ Although there were sources suggesting that the RMDSZ was ready to settle the problem with an amendment allowing private universities with tuition in minority languages and "multicultural" universities,⁷⁶⁸ the solution appeared at the last moment. On 30 September 1998, the government issued a decree on establishing the Petöfi-Schiller (Hungarian-German) University.⁷⁶⁹ On 4 October, the Council of Representatives of the RMDSZ suspended its decision to withdraw from the coalition, though it considered that the demands formulated in the ultimatum of 5 September had not been fulfilled. They, however, did recognize that some positive changes had been made.⁷⁷⁰ The High Commissioner welcomed the compromise and the fact that the RMDSZ had decided to stay in the coalition, stating that the "formula is fully in line with the tendency of increasingly complex and open societies to enlarge the range of alternatives providing meaningful choice in the field of education."⁷⁷¹ He added:

1. The creation of this university has not to be considered as an alternative to the development of the concept of multiculturalism at the Babes-Bolyai University in Cluj, but as a complement. The further development of the multicultural system at the Babes-Bolyai University remains indispensable.
2. Though the Petöfi-Schiller University would have tuition in the Hungarian and German languages, the right of interested students of Romanian or other ethnicity to follow the courses at this university will not be curtailed in any way.⁷⁷²

The emphasis on the correspondence of the proposal with increasingly complex and open societies probably refers to the Romanian debate on whether the claim for separate institutions for ethnic Hungarians is in line with international standards, a debate in which the High Commissioner repeatedly insisted on legal solutions, which do not limit different institutional outcomes, but rather open various alternatives.⁷⁷³ The open support for the Babeş-Bolyai University cannot only be seen as partisanship for the BBU, but also as a need to have alternatives, since the political process to develop Hungarian-language university education was so complex. The fact that the Rector of the BBU was, at the same time, Minister of Education and known for his distance to the RMDSZ's political efforts is an additional understandable tactical argument.

The position of the High Commissioner proved to be realistic. A large part of the Romanian political elite and segments of the civil society reacted negatively to the project. Having considered it anti-constitutional, the PUNR and the PDSR took action against the governmental decision of setting up the Petöfi-Schiller Multicultural University. When the court accepted this action, the president of the PNȚCD, Ion Diaconescu, advised the government to not appeal this decision.⁷⁷⁴ The Romanian academic elite strengthened these attacks. The National Council of the Rectors and Deans of the four major law faculties of Romania issued statements contesting the legality of establishing a Hungarian-

⁷⁶⁵ Cf. N.a., Az RMDSZ kilép a kormánykoalícióból [RMDSZ will leave the governmental coalition], in: Szabadság, 7 September 1998.

⁷⁶⁶ Cf. HCNM letter to Constantinescu, 9 September 1998, quoted in: Kemp (Ed.) 2001, p. 240.

⁷⁶⁷ Cf. Andreescu 1999, p. 196. For more detailed descriptions see Marian Pascu, Universitatea maghiara pe granita dezbină clasa politică [The Hungarian university located in the border region divides the polity], in: Monitorul, 11 September 1998; also n.a., Utolsó ajánlat: multikulturális egyetem. A koalíciós partnerek nem hiszik, hogy az RMDSZ beváltja ígérését [The last proposal: a multicultural university. The coalition partners don't believe that the RMDSZ will act in accordance with his promises], in: Szabadság, 8 September 1998.

⁷⁶⁸ Cf. RFE/RL Newslines, 9 September 1998, Romanian coalition leaders fail to compromise on Hungarian university.

⁷⁶⁹ Cf. Hotărârea Guvernamentului [Governmental Decision] No. 687/1998, 2 October 1998.

⁷⁷⁰ Cf. Kriszta Székely, Maradunk ... [We are staying ...], in: Szabadság, 5 October 1998.

⁷⁷¹ High Commissioner on National Minorities, Press Statement on Romania, 8 October 1998, at: http://www.osce.org/news/generate.php3?news_id=818 (29 April 2002).

⁷⁷² Ibid.

⁷⁷³ Cf. RFE/RL Newslines, 9 February 1998, Conflicting reports on van der Stoep's visit.

⁷⁷⁴ Cf. Zoltán Tibori Szabó, Parasztpárti nem az egyetemre [The Peasant Party says no to the university], in: Népszabadság, 15 December 1998.

German multicultural university.⁷⁷⁵ As the lack of political commitment was obvious and the legal procedures were prolonging the practical process of setting up the Hungarian-German multicultural university, the Hungarian government stressed the problem of strengthening the Romanian government's commitment to establish this institution: First it offered material support.⁷⁷⁶ Later, when the Romanian prime minister visited Hungary, Orbán argued that if the promised university is set up, Romanian-Hungarian relations will enter a "new stage".⁷⁷⁷

But, as the Law on Education had not yet been adopted, and the juridical struggle was still going on, nothing happened in practical terms. In addition, the RMDSZ realized that the parallel promotion of the administrative process of setting up a separate university and the legal reform backing this institution was not effective, and thus decided to focus on the legal dimension. In the summer of 1999, the Law on Education was passed and the juridical actions against the Petőfi-Schiller University were finally rejected.⁷⁷⁸ Thus, the formal obstacles that had once stood in the way of setting up this university were no longer there. However, for the RMDSZ, this solution was no longer a priority: Its representatives in the educational commission of the Chamber of Deputies declared that, as the Petőfi-Schiller University had not been backed by the coalition partners as elections were approaching, priority for the RMDSZ would be to create separate faculties at those universities where Hungarian-language instruction was being organized.⁷⁷⁹ Meanwhile, as the new Law on Education allowed private universities with tuition in minority languages, the reformed bishop Tőkés initiated such an institution at Oradea.⁷⁸⁰ As the dominant faction of the RMDSZ had lessened its pressure on the issue of a Hungarian-language university, the more radical faction, backed by the Orbán government, initiated a plan for a Transylvanian private university.⁷⁸¹ Moreover, the radical wing criticized Markó for giving up on the Hungarian university.⁷⁸²

Taken together, at the end of 1999, the only decisive step concerning the tertiary education in Hungarian was the amendment of the Law on Education, permitting a larger sphere of institutional autonomy at public universities and the possibility of setting up private universities with tuition in minority languages. The repeated failure to implement concrete institutional reforms led, as Markó said in an interview, to the RMDSZ having a "dominant attitude of disappointment" with regard to the chances of co-operation within the Romanian polity.⁷⁸³ This disappointment resulted in a split along the existing factions within the RMDSZ concerning a future strategy on the university issue. The debates on the Hungarian university also created the opportunity for a new group of nationalist and chauvinist political personalities belonging to the ethnic majority to get in the first line of public attention⁷⁸⁴ and reinforced the symbolic positions of other nationalists.

Against this background, the High Commissioner again took the initiative aimed at "consolidat[ing] the existing [multicultural] structures of the Babes-Bolyai university".⁷⁸⁵ In the summer of 1999, he "developed an outline for a project for assisting the University in taking advantage of the opportunities afforded by the adoption of the Law on Education."⁷⁸⁶ Starting at the end of 1999, he launched the project: "Open Horizons/Minds. Development of a Multicultural Concept at the Babes-Bolyai Univer-

⁷⁷⁵ Cf. Andreescu, 2000, pp. 196-198.

⁷⁷⁶ Cf. Zoltán Tibori Szabó, Budapest anyagilag támogatná a romániai magyar egyetemet [Budapest would financially support the Hungarian university in Romania], in: Népszabadság, 15 October 1998.

⁷⁷⁷ Cezar Marin, Viktor Orban i-a amintiți lui Radu Vasile de "Petőfi-Schiller" [Viktor Orban reminded Radu Vasile about the "Petőfi-Schiller"], in: Monitorul, 10 February 1999.

⁷⁷⁸ Cf. Zoltán Tibori Szabó, Bírósági igen az egyetemre [The court says yes to the university], in: Népszabadság, 8 July 1999.

⁷⁷⁹ Cf. Zoltán Tibori Szabó, RMDSZ: részmegoldás a partiumi magánegyetem [RMDSZ: the private university from the Partium is only a partial solution], in: Népszabadság, 20 July 1990.

⁷⁸⁰ Cf. *ibid.*

⁷⁸¹ Cf. Zoltán Tibori Szabó, Egyetemvita: kis lépések [A debate on the university: small steps], in: Népszabadság, 20 September 1999.

⁷⁸² Cf. Zoltán Tibori Szabó, Tőkés László bírálja Markó Bélát [László Tőkés criticises Béla Markó], in: Népszabadság, 2 November 1999.

⁷⁸³ Quoted in: C. Ciochina, Dacă formațiunile politice din coaliție și-au asumat o atitudine antimaghiară și antiminoritară, să declare acest lucru [If the coalition parties adopt an anti-Hungarian or anti-minority attitude, they should declare this], Monitorul, 21 November 1998.

⁷⁸⁴ Cf. Andreescu 1998.

⁷⁸⁵ RFE/RL Newslines, 19 January 2000.

⁷⁸⁶ Kemp (Ed.) 2001, p. 242.

sity, Cluj-Napoca, Romania".⁷⁸⁷ Together with a group of educational experts, the High Commissioner visited this institution several times during 1999/2000. On 17 February 2000, he submitted a set of recommendations to the Rector of the BBU, Andrei Marga.⁷⁸⁸

In assessing the needs, the HCNM met with various Hungarian actors involved in the university issue. The Hungarian agenda was related to expanding the concept of multiculturalism and stressed the institutionalization of the Hungarian lines of education in separate Hungarian faculties.⁷⁸⁹ In more general terms, the vice rector of the BBU argued that a clear legal definition of multicultural structures should be framed to compel the institutions, which would be assuming the multicultural label, to adopt certain structures.⁷⁹⁰ RMDSZ President Markó emphasized that the RMDSZ had not given up the idea of a separate Hungarian-language university, but supported the development of a multiculturalism, which includes the strengthening of decision-making structures in Hungarian-language lines of education and the creation of separate faculties and departments.⁷⁹¹ Moreover, similar measures should be taken at other institutions with Hungarian-language tuition (Tîrgu-Mureş Medical University), or where demand is expressed (Musical Academy in Cluj).⁷⁹²

The various actors representing the Romanian political and academic elite were open to continuing with the consolidation of existing structures within the BBU and expanding the number of specializations where Hungarian is used as the language of instruction, especially in the law and the economic faculties.⁷⁹³ The recommendations of the High Commissioner regarding the development of multiculturalism at the Babeş-Bolyai University aimed at ensuring the commitment and confidence of the teachers and students involved in all three linguistic components (Romanian, Hungarian and German) of the University.⁷⁹⁴ Therefore, he insisted on the university making a clear mission statement on a multiculturalism that "serve[s] the interests of all ethnic groups on the basis of complete equality."⁷⁹⁵ The mission statement should contain a clear strategy with precise guidelines and objectives to be fulfilled in order to implement multiculturalism.⁷⁹⁶ With regards to the decision-making procedures - acknowledging that "the proposal of Hungarian professors to create separate faculties is opposed by the two other lines of study" - the High Commissioner suggested an alternative formula "to have additional guarantees that its interests will be adequately safeguarded."⁷⁹⁷ Concretely, the HCNM suggested that the vice rectors from the management board of the university, who represent the three degree programmes, be elected by peers from their lines of study.⁷⁹⁸ Regarding decision-making in curricular issues, the High Commissioner recommended the following:

Proposals made by any line of study concerning curriculum in their respective mother tongue should be adopted unless opposed by a two-thirds majority of the Teaching Council of the faculty concerned. Any vote defeated in a faculty Teaching Council may be re-submitted to the Senate curriculum commission. In order for the decision of the Teaching Council to be upheld, the vote in the Senate curriculum commission would require a two-thirds majority.⁷⁹⁹

⁷⁸⁷ Cf. Zoltán Tibori Szabó, Helyben járás a Kolozsvári egyetem ügyében [No progress on the issue of a Hungarian university in Cluj], in: Népszabadság, 4 March 2000. Cf. also Ministerul Afacerilor Externe, MAE [Ministry of Foreign Affairs]: Foreign Minister Petre Roman Met Max van der Stoel, OSCE High Commissioner on National Minorities, Press Release, 1 March 2000 [author's files].

⁷⁸⁸ Cf. High Commissioner on National Minorities, Recommendations on Expanding the Concept of Multi-culturalism at the Babeş-Bolyai University, Cluj-Napoca, Romania, 17 February 2000; cf. also HCNM letter to Marga, 30 March 2000.

⁷⁸⁹ Interview with a vice rector of the Babeş-Bolyai University, 17 September 1999.

⁷⁹⁰ Cf. n.a., Rectorul Universităţii Babeş Bolyai, Pal Szilagy, i-a cerut lui Max van der Stoel sa se lupte pentru infiintarea unei universităţi de stat maghiare la Cluj [The Rector of the Babeş-Bolyai university, Pal Szilagy, asked Max van der Stoel to fight for the setting up of a state-run Hungarian-language university in Cluj], in: Cotidianul, 30 November 1999.

⁷⁹¹ Cf. RFE/RL Newline, 19 January 1999, Dispute over a 'multicultural university' re-emerges in Romania.

⁷⁹² Cf. n.a., Stoel javasolni fogja a támogatást [Stoel will propose the assistance], in: Népszabadság, 1 December 1999.

⁷⁹³ Cf. RFE/RL Newline, 19 January 1999, Dispute over a 'multicultural university' re-emerges in Romania; cf. also the press release of the Ministry of Education, No. 5384, 1 December 1999, at: <http://www.edu.ro/com5384.htm> (20 May, 2002).

⁷⁹⁴ Cf. HCNM letter to Marga, 30 March 2000.

⁷⁹⁵ Ibid.

⁷⁹⁶ Cf. HCNM Recommendations on Multiculturalism, 17 February 2000.

⁷⁹⁷ HCNM Letter to Marga, 30 March 2000.

⁷⁹⁸ Cf. HCNM Recommendations on Multiculturalism, 17 February 2000.

⁷⁹⁹ Ibid.

In this way, the High Commissioner recommended a kind of positive discrimination in the decision-making process, making it more difficult but not impossible for the ethnic majority to block minority initiatives. Rising awareness of and systematic reflection on multiculturalism was one of the other objectives envisaged by the High Commissioner. He proposed, among other recommendations, to encourage non-Romanian students to take at least one course in Romanian, and suggested the establishment of a Chair on Multiculturalism "to teach subjects relating to the development of multiculturalism".⁸⁰⁰ In addition, he recommended an affirmative action hiring policy and the increased status of languages used within the university, *inter alia*, by issuing diplomas and other official documents as well as public information in all three languages.⁸⁰¹

The reaction of the RMDSZ underlined an all-embracing equality of the three cultures, as stated in the recommendations of the High Commissioner, and stressed the need for structural changes within the university. Concretely, the RMDSZ insisted on strengthening the institutional positions of the lines of study,⁸⁰² and to somehow upgrade them from a secondary to a primary structural element. It suggested that the various groups of study have double subordination, that is, both to the faculty and the line of study.⁸⁰³ The lines of study should have important financial and curricular competencies, the right to assist in the creation of chairs at any faculty, and the right to decide on the curricular development as well as on admission requirements, personnel and recruitment policies.⁸⁰⁴ In general terms, Markó assessed that the High Commissioner's proposal did not offer the possibility to set up separate Hungarian-language departments and faculties.⁸⁰⁵

The recommendations of the High Commissioner on the new charter of the University, which was adopted in July 2000, became a topic of debate.⁸⁰⁶ In its mission statement, the charter underlines the principle of equality aimed at "equal training opportunities in Romanian, Hungarian and German".⁸⁰⁷ It also emphasizes that the BBU "provides for a framework for multicultural, multi-linguistic and inter-confessional contacts",⁸⁰⁸ "supporting the interactions between these [Romanian, Hungarian and German] cultures".⁸⁰⁹ The organization of the lines of study is defined as "the form in which the didactic process is organised at the level of faculties, departments and chairs in Romanian, Hungarian and German".⁸¹⁰ The department of the line of study includes "all faculty members who teach within the respective line of study",⁸¹¹ and is led by a director, who is also *ex officio* representative of the line of study in the faculty academic council.⁸¹² The department of a particular line of study is responsible for "the policy for the development of the line of study; the human resource policy of the line of study; the syllabus and the disciplines of the line of study; the organisation of activities specific of the line of study".⁸¹³ The leader of this sub-unit, the line of study department director, has a large sphere of duties, but regarding competencies, he or she can only supervise and propose,⁸¹⁴ having merely an enlarged consultative role within the faculty.

The lines of study are represented at the different structural levels of the academic administration. For the level of faculty, this means: "If a faculty has more lines of study, a deputy dean will represent the other lines of study not represented by the dean".⁸¹⁵ At the level of vice rector: "Three vice-rectors are

⁸⁰⁰ Ibid., Annex "Proposal for a Chair in Multi-culturalism at the Babes-Bolyai University".

⁸⁰¹ Cf. HCNM letter to Marga, 30 March 2000.

⁸⁰² Cf. Statement Regarding the Position of Democratic Alliance of Hungarians in Romania (DAHR) on OSCE Recommendations on Expanding the Concept of Multi-Culturalism at the Babeş-Bolyai University (no date), [in the author's files].

⁸⁰³ Cf. *ibid.*

⁸⁰⁴ Cf. *ibid.*

⁸⁰⁵ Cf. Zoltán Tibori Szabó, Helyben járás a kolozsvári egyetem ügyében [No progress on the issue of a Hungarian university in Cluj], in: *Népszabadság*, 4 March 2000.

⁸⁰⁶ Cf. Minelres Moderator, New Charter of the UBB Cluj, Romania, at: <http://racocon.riga.lv/minelres/archive//08042000-13:00:09-12094.html> (16 May 2002).

⁸⁰⁷ The Charter of the "Babeş-Bolyai" University, Cluj-Napoca 2000, p. 6.

⁸⁰⁸ *Ibid.*

⁸⁰⁹ *Ibid.*, p. 7.

⁸¹⁰ *Ibid.*, p. 9.

⁸¹¹ *Ibid.*, p. 18.

⁸¹² Cf. *ibid.*, pp. 15-16.

⁸¹³ *Ibid.*, p. 19.

⁸¹⁴ Cf. *ibid.*, p. 27.

⁸¹⁵ *Ibid.*, p. 26.

appointed to lead the three lines of study".⁸¹⁶ Regarding the decision-making procedures, elements were incorporated to limit simple majority decisions and to safeguard the promotion of interests of the minorities. For example, if the academic council of a faculty rejects a proposal by a department of a line of study, then this proposal can be submitted to the Senate.⁸¹⁷ The Senate

can reject the decisions [of the line of studies] with a majority of two thirds of members present. If this two-thirds majority is not reached, than the session chairperson calls for a vote on the proposal presented by the Department of the line of study [...] If the simple majority needed for the approval of the decision made by the department of the line of studies is not reached, the Senate appoints a parity committee. This will include an equal number of representatives coming from each line of studies and must present the senate with a solution accepted by all committee members. The senate then applies the solution presented by the committee.⁸¹⁸

Evaluating this structure and decision-making process following the already presented patterns of analysis, we can conclude that the charter adopted in 2000 strengthens the secondary structures of the lines of study which have been informally functioning since 1997. First of all, it defines the membership, sphere of duties and leadership of a line of study at the level of the faculties. Although the charter also provides for a representation of the lines of study at the level of the management board of the university, with the vice rector leading a given line of study, it does not contain provisions linking the vice rectors' position in the academic administration with the representatives of the lines of study at the level of faculties. Subsequently, the charter lacks a clear concept for the institutional promotion of interests regarding the lines of study at university level. The lack of competencies among the department directors in charge of the line of study has been somewhat substituted by a decision-making process which introduces a second level of decision-making in order to protect proposals which did not gain a majority at faculty level. Although this system provides better chances for the promotion of particular interests, the procedure is highly complex, time-consuming and does not necessarily achieve the desired results. The final decision is made by consensus in the parity committee.

The most important differences between the recommendations of the High Commissioner and the stipulations of the charter concern the process of decision-making. Whereas the charter ultimately introduced consensus-based decision-making, the High Commissioner had proposed that a two-third majority be necessary for the rejection of proposals on lines of study at both the faculty level and the Senate. In a letter to Rector Marga, Van der Stoel underlined the importance of this proposal: "Even if it might be considered to be superfluous, it serves an important purpose: to provide the line of study which seems to be most in need of it with an important reassurance."⁸¹⁹ This additional reassurance could not be reached, or in other words: the ethnic Romanian side could not manage to come to a decision which would have equaled a measure of positive discrimination of the weaker side in the decision-making process.

In order to evaluate the development of multiculturalism at BBU, the High Commissioner organized a seminar hosted by the Babeş-Bolyai University, titled "Integrating Diversity in Higher Education: Lessons from Romania" (7 October 1997). In his speech, Van der Stoel assessed the development as follows:

I think that this was an important step forward [the amending of the Charter] in codifying progress that had already been made and in setting objectives for the years ahead. I know that this decision was not considered ideal for many professors of the Hungarian line of study. Nevertheless, I think that changes have been introduced which go a considerable way to meet your concerns. I note, for example, that the amount of autonomy exercised by the various lines of study has been increased.⁸²⁰

⁸¹⁶ Ibid., p. 25.

⁸¹⁷ Cf. *ibid.*, p. 12.

⁸¹⁸ *Ibid.*, pp. 12-13.

⁸¹⁹ HCNM letter to Marga, 30 March 2000.

⁸²⁰ Van der Stoel, 7 October 2000, p. 3.

Whereas Rector Marga argued that the charter offers assurances for the participation of the lines of study in the decision-making structures,⁸²¹ the vice rector representing the Hungarian line of study criticized that the charter is inconsequential in applying the principle of subsidiarity to education, that the representatives of ethnic Hungarians have merely a decorative function in the academic administration,⁸²² and that the decision-making process is "superficial and demanding".⁸²³ The State Secretary of the Ministry of Education (appointed by the RMDSZ) considered that a separate Hungarian-language university represents the precondition for genuine intercultural exchange, and that multicultural structures can work as a provisory framework, especially if the principle of subsidiarity in decision-making is consequently applied.⁸²⁴

As seen, the Hungarian part was not fully satisfied with the changes at the Babeş-Bolyai University under the heading of multiculturalism. They had given up on the idea of a separate university, but still expected separate faculties. In addition to their feeling frustrated about their expectations not being fulfilled, they complained about secondary structures within which they had to organize Hungarian-language instruction. Their argument was that the practical arrangements, though having increased their participation in decision-making and having offered guarantees in promoting the interests of those numerically inferior, are inconsequential in terms of applying the principle of subsidiarity, and thus lack the possibility of effectively imparting instruction in the Hungarian language. Against this background, the protocol for 2002 between the RMDSZ and the PSD envisages further institutional reforms by creating separate faculties for the Hungarian line of studies at the BBU.⁸²⁵

The development of tertiary education in Hungarian is of particular political importance. In terms of minority protection, though in a difficult process with many backdrops, a largely permissive legal solution has been achieved compared to the situation that existed before. What the state did, was give up its claim to control the production of language competency by limiting the educational process for minorities in their respective languages to pedagogical and cultural profiles. Although permissive in terms of legal possibilities, the polity was still reluctant to permit the implementation of these opportunities in institutional practice. For example, though some of them have a respective tradition, no technical or agricultural faculty within a public university in Romania initiated Hungarian-language instruction. Nor did the Musical Academy in Cluj positively respond to the requests of Hungarian teachers and students to organize the instruction of musical pedagogy in Hungarian.

Concerning the development of institutional frames for instruction in minority languages, the legal provisions exclude the possibility to set up a separate Hungarian-language state university, permitting only private universities. The rationale for this restrictive provision is related to the manner in which both the Hungarian and Romanian elite define the idea of the university and its role within the conception of a nation. Ultimately, the legal limit reflects the asymmetric power positions of the two elites, concerning their respective nation-building projects.

What is remarkable is the fact that, though in a very ambiguous political environment, a new need emerged for an alternative grounding ideology for the university. The appeal to multiculturalism can be seen as a tactical instrument which has been applied in a given political situation⁸²⁶ but also as a possible strategic resource for future debates on forms of co-existence.⁸²⁷ As the university can be considered a model for society in handling the complex problems of inter-ethnic co-existence, the ongoing relations and negotiations within the Babeş-Bolyai University can be of further relevance far

⁸²¹ Cf. Márton László Salamon, A BBTE chartáját méltatta Max van der Stoel Kása Zoltán felületesnek, Gabriel Andreescu hatalomlegitimálónak minősítette az EBESZ tevékenységét [Max van der Stoel appreciated the Charter of the BBU, Zoltán Kása considers it superficial, Gabriel Andreescu as legitimizing power], in: Szabadság, 9 October 2000.

⁸²² Cf. *ibid.*

⁸²³ Quoted in: Virgil Lazar, Multiculturalismul românesc, posibil model european [Romanian multiculturalism, a possible European model], in: Ziuua, 9 October 2000.

⁸²⁴ Cf. József Kötö, Kísérlet a különbözőség elfogadására [Effort for accepting diversity], in: Szabadság, 10 October 2000.

⁸²⁵ Cf. Protocol privind colaborarea între Partidul Social Democrat și Uniunea Democrată Maghiară din România în anul 2002 [Protocol concerning the co-operation between the Social Democratic Party and the Democratic Alliance of Hungarians in Romania for the year 2002], 29 January 2002, at: <http://www.psd.ro/documente/protocol-psd-udmr.htm> (7 June 2002).

⁸²⁶ Cf. Andreescu 2002.

⁸²⁷ The Romanian market-place of ideas started to enriched itself with the resources of multiculturalism. See Levente Salat's seminal (at least in the Romanian context) book on liberal multiculturalism (Salat 2001).

beyond the institutional reform of this institution. If the goal is to gain the commitment of the Hungarian elite to the idea of multiculturalism and not only to the actual practical solutions, still widely perceived by this elite as a limit and not as a chance, then the process of exploring and implementing the substance of the multicultural approach must be further advanced, within and outside the university.