

## PROJECT ON ETHNIC RELATIONS

The **Project on Ethnic Relations (PER)** was founded in 1991 in anticipation of the serious interethnic conflicts that were to erupt following the collapse of Communism in Central and Eastern Europe and the former Soviet Union. PER conducts programs of high-level intervention and dialogue and serves as a neutral mediator in several major disputes in the region. PER also conducts programs of training, education, and research at international, national, and community levels.

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Individuals and institutions wishing to receive PER publications should write to:

**PROJECT ON  
ETHNIC  
RELATIONS**



15 Chambers Street  
Princeton, New Jersey 08542-3707, USA

Telephone: (609) 683-5666

Fax: (609) 683-5888

E-mail: [per@per-usa.org](mailto:per@per-usa.org)

PER Web Site: [www.per-usa.org](http://www.per-usa.org)



MAY 25, 2000

BUDAPEST, HUNGARY

## PARLIAMENTARY REPRESENTATION OF MINORITIES IN HUNGARY: LEGAL AND POLITICAL ISSUES

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## PREFACE

Hungary has launched one of Europe's most comprehensive efforts to address the needs of its ethnic minorities, including unique provisions for self-government. This policy is motivated by the wish to set an example for neighboring countries with large Hungarian minorities, as well as by the need to satisfy the demands of Hungary's own minorities.

One puzzle that remains unresolved is how to assure ethnically based parliamentary representation at the national level. Except for the large Romani minority, all of Hungary's twelve other recognized minorities are very small and some are geographically dispersed. (The Greek minority, for example, numbers fewer than 1,000.) Another factor is that Hungary's 386-member parliament is unicameral, so that the addition of even one mandatory place for each of the thirteen recognized minorities could have unpredictable effects on the balance of power in governments that typically are made up of coalitions. There is also the question of how to balance the expectations of a large minority, the Roma, with those of the small minorities.

Despite the Hungarian Constitutional Court's 1994 decision mandating passage of a law that would provide for the representation of ethnic minorities in Parliament, seven years later no such law yet exists. As readers of this revealing report will learn, the problem is only partly one of the unwillingness of political leaders to act; it is also exceptionally difficult to find a formula that will satisfy the wishes of all of the minorities without creating problems for the mainstream parties or for the functioning of Parliament itself. Implicit in this quandary is the question of whether minorities should be disproportionately represented and, if so, to what degree.

This report is an account of a meeting on this subject organized by PER in May 2000 for government officials, representatives of the major political parties, and leaders of ethnic minorities. Their discussion was especially instructive, because it illustrates how difficult it can be to implement even the best-intended and forward-looking minorities policies when it comes to devising the actual details. The Hungarians' struggle also raises the larger issue of whether there is one right way to protect minority interests. For example, is it fair to give members of ethnic minorities two votes for members of parliament—one for candidates at large, another reserved only for their group? Other countries are struggling with various solutions. In neighboring Romania, for example, one parliamentary seat is reserved for each of the eighteen recognized minorities (with ethnic parties also free to compete for other seats) but this arrangement pertains only to the lower chamber of a bicameral parliament, and thus limits its impact.

There were strong expressions of political will at the meeting and a seeming readiness among the most important political parties to find compromises. But

there has been no movement since then. Hungarian decision-makers will sooner or later have to return to the issue, barring an unlikely constitutional change. We hope that the record of this debate will be useful to them and instructive for those in other countries who must resolve similar questions.

This report was prepared by PER's Budapest office, under the supervision of Ferenc Melykuti. PER assumes full responsibility for the text, which has not been reviewed by the participants.

**Allen H. Kassof**, *President*  
Princeton, New Jersey  
March 2001

## INTRODUCTION

The Budapest Office of the Project on Ethnic Relations (PER) hosted an international roundtable discussion in Budapest at the Teleki Laszlo Foundation on May 25, 2000 entitled, "Parliamentary Representation of Minorities in Hungary: Legal and Political Issues."<sup>1</sup>

The event was held to review legal and political issues that have arisen in seeking a solution to the lingering problem of how to structure the representation in Parliament of ethnic and national minorities. A concomitant objective was to have participants air their ideas and proposals on the problem, and by coordinating these, to achieve progress toward a mutually acceptable solution.

Participants from Hungary included leaders of the institutions that represent the nation's thirteen legally recognized minorities, otherwise known as their "national self-governments;" the Parliamentary Commissioner for National and Ethnic Minority Rights (more commonly called the "minority ombudsman"); officials and representatives of the national government, Parliament, and of political parties; as well as officials from the EU and the Council of Europe.

***Parliamentary representation of minorities is an issue with implications not only for Hungary but for the entire region.***

The Hungarian Constitutional Court ruled in 1994 that Parliament had been violating a Constitutional stipulation that "historical minorities"—those recognized under Hungarian law as having inhabited Hungary for at least 100 years—be represented in the national

legislature. The question of just how to resolve this legal dilemma has been a contentious one among political parties since then. Regardless of the make-up of the government at any given time—and each election has brought a very different coalition to the fore—the parties have been unable to find a consensus either among themselves or, for that matter, with the minorities' national self-governments. Soon before the last general elections, in the early spring of 1998, it seemed the gap might be bridged, but then hopes evaporated quickly as political will dissipated with the impending elections.

As noted by representatives of the political parties on hand, and in an article afterward in Hungary's largest daily, the PER-hosted event signaled a breakthrough: five of the six parliamentary parties—all except the extreme right-wing Hungarian Justice and Life Party (MIEP), a small but vocal opposition force—agreed to back a solution that could assist national and ethnic minorities in securing parliamentary mandates on a preferential basis during the next parliamentary elections. (One party, the Hungarian Democratic Forum, was not represented at the roundtable discussion but subsequently signaled its

approval.) Indeed, the roundtable saw the stances of the two largest parties—the one currently at the helm of government, the Young Democrats (FIDESZ-MPP, or literally “the Alliance of Young Democrats – Hungarian Civic Party,” but more often referred to by its old and simpler name, FIDESZ); and the Socialists (MSZP), the most formidable opposition force—brought much closer together, although some technical and political issues remain to be resolved.

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The president of PER welcomed the participants and introduced PER as a provider of a neutral framework for the discussion of multiethnic relations—one that facilitates representatives of government, political parties, and minorities in conducting a balanced dialogue. PER has been present in Hungary for ten years, he noted, dealing with domestic as well as international issues. In April 2000 PER had organized a conference in Budapest on the topic of Albanians and its neighbors, with Kosovo high on the agenda. PER has also consulted with the government of Hungary on the issue of the Stability Pact for South East Europe. As the president of PER noted, the main agenda item of the present discussion—the parliamentary representation of minorities—is an issue with implications not only for Hungary but for the entire region, and one whose consequences will resonate far beyond Central Europe. Nevertheless, he observed, there is no universal answer to the question: specific cases require specific solutions. PER aims to learn from the present discussion, he said, so that it can share the Hungarian experience with other countries facing similar problems.

## MINORITY REPRESENTATION IN PARLIAMENT—INEVITABLE NEXT STEP?

The second highest official at the Ministry of Justice next took the podium. She began by observing that PER has initiated and conducted many a dialogue on the issue of national and ethnic minorities, helping to make events such as these something of a tradition. The topic of the present discussion is especially timely, she said; for notwithstanding that ten years have passed since the nation’s first multiparty elections in more than forty years—and despite the government’s wish to establish a minority-friendly environment, where legal rights are realized—the parliamentary representation of minorities has yet to be resolved. Not that this is an international norm or expectation, she observed. Even the Council of Europe’s Framework Convention on the Protection of Minorities (Article 15) states only that the parties to the Convention are obliged to establish the conditions necessary for individuals belonging to national minorities to participate in the cultural, social, and economic life of the given country, as well as in public affairs—especially those affecting them. Hungary fulfilled this

commitment by establishing a system of local and national self-government for its minority groups. It is instead the Hungarian Constitution that calls for the nation’s laws to ensure the representation of its national and ethnic minorities. Law No. LXXVII of 1993 on the Rights of National and Ethnic Minorities (commonly called the Minority Act) explicitly states that minorities have the right—by a means to be defined in a separate law—to representation in Parliament. However, this separate law is still missing. In its 1994 decision, the Constitutional Court declared the absence of this law to be anti-constitutional: a breach of the Constitution by omission. To date, several proposals have aimed to coordinate the “privileges” to be granted the minorities with the principle of universal suffrage. Nevertheless, there have been formidable obstacles:

- Minorities in Hungary are relatively small in number and geographically dispersed, meaning that their right to parliamentary representation can be ensured only through positive discrimination.
- Individual citizens are not registered in Hungary by national or ethnic identity.
- By parliamentary tradition, laws relating to minorities are to be approved by consensus of all major parties.
- Parliament has one chamber only, and representation is based solely on the number of votes each party and its candidates garner in national elections.

A lack of consensus, and Constitutional obstacles, have long precluded an amendment to the Minority Act that might have ensured minority representation in Parliament. Attempts to pass such a bill have consistently met without success. In order to accelerate the drafting of such an amendment, the Parliamentary Committee on Human Rights, Minorities, and Religious Affairs established an ad hoc committee to draft the bill. This body—made up of MPs delegated by the parliamentary parties, representatives of the minorities’ national self-governments, and the minority ombudsman—drafted a bill it was still reviewing at the time of the roundtable discussion.

The roundtable chairman—the Director of the Minority Program at the Hungarian Academy of Sciences—told participants that the self-government model Hungary had adopted to ensure representation of its minorities has passed beyond its experimental period. The question now is thus whether parliamentary representation of minorities would be the crowning achievement of this institution of self-government or, rather, an entirely new dimension in a so far relatively unstable system. Is it the inevitable next step in the nation’s minority policy or one that can be further delayed?

Speaking next, the minority ombudsman remarked that in recent years there has been an ongoing debate over whether Hungary needed to provide parliamentary representation for its minorities at all. Was the move intended as a

benefit provided for by a state free of external pressure, or as a means of living up to some international or national standard? The answer is ambiguous. While there is no binding international standard, there are general directions to be followed. Still, the relevant international agreements are usually low on specifics and there are often so many signatories to them that finding a common denominator is anything but easy. Consequently, many details are left out of documents that ostensibly provide guidance. In Hungary itself, meanwhile, the nation's highest court previously confirmed the Constitutional obligation to have a law on the books that ensures parliamentary representation for minorities. It is the office of the minority ombudsman that is charged with urging MPs to meet these obligations.

## REPRESENTATION FOR ALL MINORITIES—OR SOME?

Last year the ombudsman's office went one step further. A key impasse had stood in the way of a solution—namely, while the Constitution requires parliamentary representation of minorities, the 5% of votes that under the Election Act any party must meet nationally to obtain seats in the legislature effectively contradicts this right, for minority groups could hardly hope to achieve such a threshold. And so the ombudsman petitioned the Constitutional Court to resolve the matter. He asked the Court to determine just what “constituents of the state” (as the Constitution refers to minorities) really means and, further, to declare the 5% threshold unconstitutional with respect to minorities and to oblige Parliament to redress the situation. Although Parliament is, technically, already obliged by the Court's earlier ruling to ensure minority representation, the parties presently in Parliament are disinclined to simply eliminate the 5% threshold. The Constitutional Court must decide in the matter within a reasonable time, because the next national elections are only two years away, and amending the Election Act promises to be a time-consuming process.

If it is accepted that the Constitutional obligation to provide parliamentary representation for the minorities is valid, then the question remains: How can this be realized? There are two opinions, explained the ombudsman:

- An approach that satisfies certain, larger minority groups at the expense of smaller ones; the existing legal order would best accommodate this approach.
- A “collective” approach that would ensure the parliamentary representation of *all* minorities, even those that under the present legal circumstances could not hope to achieve sufficient votes.

The answer hinges on the lingering question of just what sort of obligation the

Constitution imposes. Collective equality cannot be deduced from the Constitution. Is there some other nation whose approach might provide a model? There is, right next door: Romania. Minorities there enjoy guaranteed representation in Parliament. In Romania, not only is the Democratic Alliance of Hungarians in Romania (RMDSZ) represented in Parliament, which owing to its size is able to get elected in the same way as other parties, but the other legally recognized minorities are also automatically granted representation in Parliament.

The ombudsman observed that the Independent Smallholders' Party (FKGP), the junior member in the current governing coalition, sees a bicameral parliament as opening the door to a solution. (Creating such a legislature has long been prominent on the Smallholder agenda. This idea is shared by MIEP but rejected by other parties.) Elsewhere in Europe, noted the ombudsman, a bicameral parliament is by no means a precondition to the parliamentary representation of minorities; and even where it does appear to ensure them representation, minorities invariably sit in the lower house.

Also stressed at the roundtable was the problem that guaranteed minority representation could, if not structured carefully, be seen as discriminating between minorities. In Hungary, for example, the Roma (Gypsy) community could wind up with approximately the same number of representatives as other minorities—all of whom occur in much smaller numbers. In short, the effort to implement a system quickly could see the ideal of proportional representation fall by the wayside.

## FINDING AN ACCOMMODATIVE LAW, CLARIFYING WHAT THE CONSTITUTION SAYS

Another question is where—in what law(s), that is—to regulate minority representation in Parliament. As roundtable participants learned, the ombudsman's office proposes that the general principles be laid down in the Minority Act, with the details to be spelled out in the Election Act.

The chairman of the previously mentioned ad hoc committee of the Parliamentary Commission on Human Rights, Minorities and Religious Affairs, an MP with FIDESZ (representing his party as well at the roundtable discussion), agreed with the ombudsman on many points, but wished to raise others as well. The failure so far in implementing minority representation in Parliament can be explained by a lack of political will, he said, and by the prevalence of misconceptions and unspoken taboos among MPs. This situation must be resolved, and to this end, the exact phrasing of the relevant passages of the Constitution should be made clear. The committee

chairman quoted from Article 68 of the Constitution, as follows:

- “Minorities are constituents of the state.
- Minorities may (are given the right to) establish national and local self-governments.
- In Hungary, the representation of minorities is ensured by laws.”

The chairman pointed out that the first statement—that about minorities being “constituents of the state”—does not allow for any subjective rights to be deduced; and so it is Parliament’s duty to invest the statement with meaning. Article 20 of the Minority Act states, “Minorities in Hungary are entitled to parliamentary representation as stipulated in a separate law.” Although the Constitutional Court has dealt with the issue three times, this separate legislation has yet to be drafted in a form acceptable to enough parties for approval in Parliament. In 1992, a year before the passage of the Minority Act, the Court ruled that the parliamentary representation of minorities is lacking and that Parliament should take the necessary measures to redress this situation. In its 1994 decision, the Court noted that it had already made a decision on the issue in 1992. In 1992, the Local Government Act was already in place, allowing minority representatives to obtain seats on municipal councils in a streamlined manner, either with full-voting rights or as non-voting “advocates.” If minorities are to be represented in Parliament, said the committee chairman, this sort of representation is the minimum that must be achieved.

At present, he underlined, parliamentary representation can be achieved only through the existing legal system, which requires a party to garner at least 5% of votes nationwide to ensure it seats. Parliament can, however, certainly amend the Election Act to facilitate minority representation. To date no one has been able to say definitively what figure other than 5%—or, rather, what threshold defined in terms of a minimum number of votes—might be necessary to ensure that all minorities achieve representation. In the chairman’s opinion, minority representatives could also get into Parliament by some sort of delegation; for example, the national self-government of the given minority would elect a delegate to represent it in Parliament. He acknowledged, however, that this idea is open to criticism from those who would point out the absurdity of representatives obtaining seats in a one-chamber parliament in two separate way—selection and delegation. Thus the chairman concluded that the only solution is to focus on the threshold, which must be set so as to ensure minority representation in Parliament.

Where does the decision-making process on the issue stand at present? As the committee chairman observed, Parliament extended until year’s end the mandate of its Committee on Constitution and Justice to resolve the issue.

If there is no solution by then, the issue will be removed from the agenda for the current parliamentary term. Yet another complicating factor is that the push to ensure minorities’ parliamentary representation is underway at a time when every parliamentary party wishes to decrease the number of MPs, although there is no consensus on how to carry out this goal. If it proves impossible to definitively solve the issue of minority representation in Parliament, said the chairman, small steps should be taken toward this end. If there is insufficient political will to modify the Election Act, he suggested, steps could be taken to ensure that at least the minorities’ national self-governments become more involved in the work of Parliament.

The roundtable chairman next summarized the issues thus far raised—among them, the very concept of representation, the question of taking “half-steps” as an alternative to citing insufficient political will and so doing nothing at all, and that elusive concept, “constituents of the state.” He then called on the minority representatives in attendance to present their opinions.

The president of the national self-government of Germans in Hungary began by observing that at the many events of late to commemorate Hungary’s millennium, public officials have often noted the tolerant nature of Hungarians. He considered this a sign of the two-faced nature of Hungarian politics: on the one hand, declarations and gestures aplenty; on the other, a lack of political will for concrete steps. Even outright refusal, he said, would be better than the quasi-policy of “promises and withdrawals” that has seriously undermined the credibility of Hungarian politics.

As for the suggestion that it may be necessary to proceed in half-steps, he asserted that the question is not so much whether half-steps are acceptable, but rather if politicians have reached the point where they are ready to accept even this much. He for one has yet to see the first such step forward. The minorities would be glad to cooperate, but first the politicians should say something definite.

The minority ombudsman at this point acknowledged that the “half-step” policy, while it would appear politically simple, is in fact legally quite problematical, since a Constitutional amendment requires a two-thirds majority vote in Parliament, while amendments to most other laws require only a simple majority.

The representative of the German minority now spoke again. While agreeing that little distance divides the solutions proposed by FIDESZ and MSZP, he said the problem was that FIDESZ wants to link the minority representation issue to a decrease in the number of representatives in Parliament. This, he said, was an unfortunate route toward a solution.



## “THREE-VOTE” OR “TWO-VOTE” MODEL?

The MSZP representative on hand said that except for the linking of these two issues, his party could accept FIDESZ’s proposal. A less contentious matter is the Socialists’ support for a three-vote model, because the MSZP believes that unless the threshold is lowered to 1,000, the FIDESZ-backed two-vote model could not guarantee the representation of every minority.<sup>2</sup> If FIDESZ gives up linking the issues, the Socialists could accept their proposal, despite the fact that at the suggested, 5,000-vote threshold there would be minorities left out. If, however, FIDESZ continues to insist on linking the two issues, the Socialists cannot accept the FIDESZ proposal.

The German minority representative thought that the three-vote model was realistic only if there were separate lists of candidates, which is impossible.

The Socialist representative asked why there were no separate, national or local ballots available at the venues where local minority self-government elections are held when such elections are held on the same day as other elections. In saying this he was apparently suggesting concern that some minority voters would thus fail to cast ballots in other elections. The German representative offered a possible solution:

***There is strong support among Hungarians at large for minority representation in Parliament.***

the election of minority representatives should never be held on the same date as other elections.

At this point the Romanian minority representative mentioned that ever since 1848, Hungary has been a country of laws and regulations, but that

these have always remained on paper. This reflects an enduring divide between principle and practice, he suggested. Article 68 of the Constitution speaks of local and nationwide self-governments, for example, but no mention is made of cultural autonomy.

Next the FIDESZ deputy summed up the debate over the election technique: the Socialists support a three-vote model, while FIDESZ supports a two-vote model. A two-vote model would be more realistic, he said. The other issue of contention is the threshold. Regardless of the figure decided on, there would still be minorities that could not make it to Parliament.

The president of the Greek minority’s national self-government observed that in the case of the two-vote model, a citizen choosing between the minority’s and the party’s list would either exclude himself from the fate of the country or trust that a party will represent him not only as a citizen but as a minority. He asked the FIDESZ deputy why in this light a two-vote model was realistic. The MP replied that the Socialists alone supported the

three-vote model, whereas the other five parliamentary parties opposed it.

The president of the national self-government of Ukrainians in Hungary asked bluntly if the issue of minority representation in Parliament would ever be solved. Many proposals have been put forward, she said, but to no avail. One key obstacle, she suggested, is a presumed lack of support from the minorities themselves for a system that would treat them, come election time, as different than other citizens. She explained that the minority citizen is also a citizen of Hungary, who like other citizens gives his or her vote to a party; if he or she has to choose whether to give this vote to a party or to a minority representative, no doubt in most cases the vote would go to a party.

The other big question, she said, is the scope of authority such minority representatives would be invested with. What would involvement in the work of Parliament mean, practically speaking, if the delegates were not allowed to vote? She said that they would presumably not be given that right, suggesting that this would discourage minorities from casting their ballots on minority lists at all. At the same time, in her assessment there is strong support among Hungarians at large for minority representation in Parliament. Why, then, do politicians appear so afraid of taking the step?

The ombudsman added that there is no constitutional obligation that guarantees parliamentary representation to all 13 minorities. However, neither does the Constitution set any minimum number of people who must belong to each minority, and there is no means by which minority groups could be discriminated against on the basis of their size. Indeed, in Hungary, the effort to avoid stirring up negative memories out of the region’s troubled history has made the state averse to collecting any official statistical data on the size of minority groups.

The president of the national Greek self-government now spoke again. The question is really one of political will, he asserted. The figure of 1,000 votes is often cited as a reasonable threshold, he noted while acknowledging that many deem this too low. In Hungary’s present, two-round electoral system, if the first round draws an insufficient percentage of eligible voters, the second round is valid with a turnout of 25%. In an average-size town in Hungary, 25% would be 12,000 people. In previous elections there were places where as many as eight candidates participated, which could mean a little over 1,000 votes per candidate — i.e. exactly the lowest figure mentioned as threshold for minorities. Why then, he asked, are minority elections often referred to as “elections for elections’ sake?”

It is high time the politicians either say “yes” or “no” to minority representation in Parliament, said the Greek representative; and if they say yes, they should indicate whether the “yes” is for every minority or only for some minorities to get into Parliament. There is no consensus among the minorities themselves on

the question of whether each minority should have one representative or if the number of representatives they have, if any, should depend on the relative size of the given community.

The representative of the national Roma self-government said he was disillusioned to see that a lack of political will stands in the way of a solution. The Roma oppose the delegation system, he said, because in their very fragmented society it would mean investing one person with a huge responsibility, which probably no one would want to undertake. If the threshold were lowered, however, the Roma would prefer to see scattered votes from around the country added up.

### **SETTING A MINIMUM NUMBER OF VOTES AND NAILING DOWN OTHER DETAILS**

The FIDESZ deputy offered a possible alternative as a basis for negotiation: the minority self-governments would draw up lists of candidates which would be used similarly to the national lists that each party offers in the ballot box—votes for a list being, essentially, votes for the party itself. All citizens would have two votes, one for an individual representative and another either for the party list or for the minority list. The person leading the list would get into Parliament with a minimum of 5,000 votes, with the remaining candidates to

***The threshold of 5,000 would be problematic even in the case of such relatively large minorities and would definitely exclude many others from representation in Parliament.***

be elected according to the number of parties. FIDESZ has until now linked the minority representation issue to decreasing the number of seats in Parliament, because minority representation would unavoidably increase the number of MPs. However, FIDESZ is seriously reconsidering its stance on the issue. While there have been positive developments on this front within its ranks, the relative unimportance of the issue to individual party members does

not give much cause for optimism at this point. As for the 5,000-vote threshold, FIDESZ deems this figure the smallest amount of votes by which representatives should be elected.

The MSZP representative said a change of opinion in the FIDESZ ranks on the issue of linking the two-vote model with a decrease of parliamentary seats would certainly be welcome. Were these issues not linked, the two-vote model would be acceptable to the Socialists and so a solution would be very close at hand; for the only matter of contention left would then be the threshold. There

are three alternatives. If other parties do not accept the three-vote model, the Socialists will reluctantly abandon their stance, since it was never a question of principle to begin with, but rather an opinion based on the Socialists' consultations with minorities. As regards the threshold, in 1997-98, when still at the helm of government, the Socialists, following the same logic FIDESZ uses today, had likewise proposed 5,000. But they later realized that the threshold should be lowered so as to guarantee fair treatment to even the smallest minority. (The conservative government in office just prior to the May 1994 elections that brought the Socialists to power had proposed 3,000; and the Socialist representative at the roundtable discussion spoke of 1,000.) The threshold of 5,000 would be problematic even in the case of such relatively large minorities as the Romanians, said the MSZP representative, and would definitely exclude many others from representation in Parliament. Thus, he said, a more reasonable threshold should be set.

The Greek minority representative asked how the parliamentary seats would be distributed; whether, for example, the first seats would be given to the minorities, with political parties distributing the rest among themselves. The FIDESZ representative and ad hoc committee chairman said that preferential mandates would have priority, while the others (i.e. other mandates obtained by minorities) would be distributed together with those of the parliamentary parties. And this is precisely why the number of parliamentary seats that would result is uncertain.

The Greek minority representative emphasized the importance of the threshold: While in a three-vote model every minority could get into Parliament, since voters would not choose party lists over minority lists, but could vote for both, in the two-vote model more than half of the minorities would be unable to. Should every minority get in, or should there be 13 minority representatives, but not from every minority? Or should there be one representative for each minority?

The President of the national Ruthenian minority self-government condemned what he alleged were delaying tactics that consecutive Hungarian governments have used to shelve the matter, and threatened a joint counter-campaign by all 13 minorities.

The Smallholders representative cited his party's wish to see a bicameral parliament. And he pointed out that the party's historic roots go back to the emancipation of serfs. A one-chamber Parliament will promote agreement neither between politicians and minorities nor among the minorities themselves. Only a bicameral legislature could effectively represent the whole of society, he said. Since a lack of political support means this idea cannot be realized for now, the FKGP acknowledges that steps must be taken to fulfill Hungary's legal obligation to ensure parliamentary representation of minorities. The question is how

to achieve this. The FKGP is ready to support any proposal that brings the solution closer, even though the party is well aware that any solution will be far from perfect.

The representative of the Alliance of Free Democrats (SZDSZ)—the Socialists' junior governing coalition member from 1994-1998—stated that in Hungary today there is technically no legal obstacle to the parliamentary representation of the minorities, since parties can be formed on an ethnic basis. Owing to the post-WWI Treaty of Trianon, however, there is a huge practical obstacle. Trianon annexed vast regions of Hungary with large minority populations to the country's neighbors, leaving the new (and present-day) Hungary with only a small number of generally dispersed minorities—with the exception of the Roma, who unlike the other “ethnic” minorities are legally classified as “national” minorities, yet even they are relatively dispersed.

Hungary's minority protection system has many elements over and above the lingering issue of parliamentary representation, the SZDSZ representative pointed out. Thus the question is not whether Hungary is a tolerant nation, but whether politicians can work out the details to enhance an already strong system. FIDESZ's proposal approximates that of the SZDSZ, the main points of which are as follows: a continued unicameral parliament, universal suffrage by secret ballot—meaning no registration of voters as belonging to minority groups, for this would violate the spirit of secrecy—and rejection of the three-vote model. The SZDSZ supports the two-vote model and the 5,000-vote threshold, although it would prefer an even higher threshold. A minority group could even garner several mandates by running as a party, but in a two-vote model there will be minorities who will not reach the threshold—and a solution must be found to their problem as well. Among the options, said the SZDSZ representative, would be to allow them to participate in the work of Parliament as non-voting members with “advocacy” status.

Another alternative would be to invest the national self-governments themselves with certain political rights or, independently from them, to grant all 13 minorities some sort of collective advocacy status. Such status has been questioned, of course, but of course, a minority would be a minority within Parliament regardless.

The MIEP representative said his party, like the FKGP, was thinking in terms of a bicameral parliament as an important step to facilitate the parliamentary representation of minorities. Not because of numerical threshold problems, but because these thresholds discriminate against the majority of society in favor of the minority—or in this case, of the minorities. The issue is not one of tolerance. Indeed, the door is open even now for minority groups to found their own parties and to conduct dialogue with established parties. MIEP thus proposes a more limited form of minority representation in Parliament: the

president of the Organization of National Minority Self-Governments should be elected *not* by all 13 minorities, as at present, but by 12—that is, with the exception of the largest group, namely the Roma. Both this individual and the president of the Roma self-government would have advocacy status in Parliament, and on issues of particular concern to minorities in general, all 13 self-governments should be given the opportunity to voice their opinions.

As for the registration of citizens as belonging to minority groups, the MIEP representative said it is impossible to speak of minority representation so long as there is no system of registration. How could it otherwise be known who is represented by the given (minority) representative? This is a matter of free choice of identity, he insisted, not one of a “stigmatized minority.”

The MIEP representative continued by saying that if Hungary's “political elites” are ready to declare that there would be no mass immigration into Hungary from any neighboring country in consequence of ensuring parliamentary representation to minorities, MIEP is ready to cooperate. Otherwise MIEP cannot agree, since the rights of the majority would be threatened. This is especially the case in light of the FIDESZ proposal, he said, which would decrease the number of representatives while offering representation to minorities.

The MIEP comments prompted several remarks from the minority representatives. The Ukrainian representative, for example, observed that Hungary's relative openness made it only stronger and richer, and so there is no need to fear a rush of immigration. However, the registration of individuals as belonging to this or that minority will be rejected in the whole region for some time to come, owing to bitter memories of twentieth-century experiences that saw some peoples forcibly resettled in great numbers on account of their identity. Indeed, the memory of such experiences is exactly why minorities in Hungary want to be represented in Parliament so that they might be protected by their representative(s) there.

The MIEP representative emphasized that, due to his personal efforts, the party's present stance on the issue was much more flexible than previously. While agreeing that the representation of all 13 minorities in Parliament would certainly offer the minorities an ideal degree of protection, MIEP's problem is with the numbers—namely, the proposals on the table all hinge on a considerable degree of positive discrimination. And this sort of discrimination should not come at the expense of the majority population, whose interests also require protection. At this point he reiterated, however, that a guarantee of no additional immigration as a consequence of such legislation would be enough to persuade MIEP to support some sort of solution.

## CONSENSUS SLOWLY DEVELOPING

The Romani representative expressed his hopes that an agreement would slowly evolve, and summed up the situation. It seems, he said, that the FKGP, MSZP, and FIDESZ agree on most key points. In the Romani representative's assessment, the 5,000-vote national threshold could be reached even by the smallest minorities. He asked the MSZP representative whether his party continued to insist on a 1,000-vote threshold. The Socialist deputy replied that the 1,000-vote threshold was his personal opinion; an ideal compromise would be 3,000, he said, but even that would exclude some minorities.

As for a possible amendment to the Election Act to pave the way for minority representation in Parliament, the FIDESZ representative explained that if five of the six parties on Parliament's Committee on Constitution and Justice agree to such a bill, it would be submitted to Parliament.

The minority ombudsman noted that since there is no reason to suppose that the stance of the MDF—which, as mentioned previously, was not represented at this discussion—is very different from that of most other parties, the necessary consensus was more or less taking shape. One big question remained: Was the issue linked to a decrease in the number of parliamentary seats? Consensus on this point would bring a solution within reach.

Next to speak was the Romanian minority representative. Every minority should be represented in Parliament, she said. As for the threshold, she backed the figure of 1,000 votes given its precedence in the Minority Act. She also noted that while minorities in Hungary still have no representation in Parliament, the debate on the so-called "Status Law"—concerning the special status and, potentially, certain rights within Hungary that the Hungarian government would grant ethnic Hungarians living beyond the country's borders—is proceeding full-steam ahead.

## A MIX OF OPTIMISM AND PESSIMISM

The Greek minority representative underlined the importance of the present discussion and said it had made him a bit more optimistic than before, since a consensus appeared to be taking shape around the two-vote model and 5,000-vote threshold. At the same time, he added that this sort of threshold would clearly see the law on the parliamentary representation of minorities effectively apply to two or three minorities only.

The vice president of the national Slovene self-government commented that for this minority, the parliamentary representation of only some minorities represented no solution at all. Still, he observed, "half-steps"

toward a potential solution were better than a half-solution. He called for the threshold to be lowered to 1,000 votes, citing the fact that this figure also applies when minorities elect representatives to their national self-governments.

The MIEP representative asked the participants to understand his party's concerns and urged the minorities to raise their voices on the issue of potentially increased immigration.

The SZDSZ representative expressed that party's readiness to discard the idea that certain large minority communities should have several lists of candidates, which had been raised by these minorities three or four years earlier. Yet a solution must be found—most probably, non-voting advocacy status—for those minorities that cannot get into Parliament.

The FIDESZ representative and ad hoc committee chairman summarized the former opinions by saying that the two-vote model seemed the most probable alternative, with a threshold of 5,000 votes—or possibly lower, though he did not see this as realistic. If the issue of minority representation is no longer linked to a decrease in the number of seats in Parliament, a solution will be nearer at hand. And he added that the committee has yet to seriously consider the issue of ensuring representation to those minorities that stand little chance through the ballot box of getting into Parliament.

***The issue of ensuring representation to those minorities that stand little chance through the ballot box of getting into Parliament has to be seriously considered.***

## CLOSING REMARKS

In his closing remarks, the roundtable chairman observed that the ad hoc committee's mandate—and so the issue of minority representation in Parliament—would last until year's end. He reminded participants that a logjam on the minority rights front characterized the period leading up to 1993 as well, but with the help of one person who took on the issue, the Minority Act was passed nonetheless. The requisite political will is again being sought to bring about a solution, and the sundry technical and political obstacles can be surmounted only if it is kept in mind that “subtle” solutions may be required to achieve the necessary support.

On behalf of PER, its president thanked the participants for an enlightening and informative discussion. He was especially impressed, he said, by the discipline and the open-mindedness everyone on hand had demonstrated in debating the issue. And he expressed his hope that real progress would be seen by year's end. Judging from similar discussions in many countries, he observed, it is fair to say that finding a solution is never a simple matter. He closed by offering PER's services in conducting similar constructive dialogues in the future.

## NOTES

<sup>1</sup> \*It should be noted that no notable legal advances concerning the parliamentary representation of minorities have occurred in Hungary, whether in Parliament or in the Constitutional Court, since this event; this, despite expectations that something would occur by around the end of 2000 to further an eventual solution. Hence the state of affairs suggested by this report more or less reflects the status quo as Hungary approaches the 2002 national elections.

<sup>2</sup> Under the three-vote model, all registered voters would have the option of casting three ballots instead of the two at present: one for a minority group's national list of candidates, another for a party's national list, and a third for an individual representative from the local election district. Under Hungarian election law, if at least 5% of voters nationwide choose a given party, the candidates on its list get seats in Parliament, beginning with the person whose name tops the list. For minority groups this threshold would probably be expressed in number of votes—for example, 5,000. This system would mean that a vote for a minority list would not mean one less vote for a party list. In the case of a large minority group such as the Roma, who traditionally favor the Socialist Party, a three-vote model would assure the Socialists that it would lose few votes to the minority group. Under a two-vote model, voters would have to choose between a party list and a minority list. The 1,000-vote threshold has often been cited due to its precedence in the Minority Act, which states that a minority group achieves legal recognition if it has been present in Hungary for 100 years and secures 1,000 signatures requesting recognition.

## LIST OF PARTICIPANTS

### Republic of Hungary

**Alex Avanesian**, President, Armenian National Minority Self-Government

**Andras Balogh**, Deputy Department Head, Ministry of Foreign Affairs

**Maria Berenyi**, Member, Romanian National Minority Self-Government

**Zsuzsanna Berzsenyi**, Department Head, Office for National and Ethnic Minorities, Government of Hungary

**Csaba Bubenko**, President, Polish National Minority Self-Government

**Laszlone Csucs**, Member, Polish National Minority Self-Government

**Jorgosz Dzindzisz**, President, Greek National Minority Self-Government

**Janos Hargitai**, Chairman, ad-hoc Committee on Human Rights, Minorities and Religion, Parliament of Hungary (FIDESZ-Hungarian Civic Party)

**Jaroszlava Hartyani**, President, Ukrainian National Minority Self-Government

**Lorant Hegedus**, Member, Committee on Human Rights, Minorities and Religion, Parliament of Hungary (Party of Hungarian Truth and Life)

**Otto Heinek**, President, German National Minority Self-Government

**Antal Heizer**, Vice President, Office for National and Ethnic Minorities, Government of Hungary

**Jeno Kaltenbach**, Commissioner for National and Ethnic Minorities, Parliament of Hungary

**Istvan Karagics**, Vice President, Croat National Minority Self-Government

**Ivan Konozirev**, Member, Bulgarian National Minority Self-Government

**Janos Kosnyanszky**, Member, Ruthenian National Minority Self-Government

**Ferenc Kranjec**, Vice President, Slovene National Minority Self-Government

**Pero Laszitty**, President, Serb National Minority Self-Government

**Istvan Meszaros**, Member, Alliance of Free Democrats

**Bela Osztajkan**, Vice President, Roma/Gypsy National Minority Self-Government

**Ilona Palffy**, Deputy State Secretary, Ministry of Justice

**Iren Sipos**, Deputy State Secretary, Ministry of Interior

**Laszlo Szarka**, Director, Minority Research Workshop, Hungarian Academy of Sciences

**Peter Szentgyorgyvolgyi**, Member, Committee on Self-Government and Policing, Parliament of Hungary (Independent Smallholders Party)

**Csaba Tabajdi**, Member, ad-hoc Committee on Human Rights, Minorities and Religion, Parliament of Hungary; Deputy Head, Parliamentary Faction of the Hungarian Socialist Party

**Tibor Vaszi**, Office of Hungarians Abroad, Government of Hungary

### **International Participants**

**Luca Kadar**, Program Manager, Delegation to Hungary, European Commission

**Antti Korkeakivi**, Head of Secretariat of the Framework Convention for the Protection of National Minorities, Council of Europe

**Katalin Somody**, Project Manager, Delegation to Hungary, European Commission

### **Project on Ethnic Relations**

**Allen Kassof**, President, PER (USA)

**Ferenc Melykuti**, Director, PER Office in Hungary

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