

MINORITY RELATIONS IN MULTIETHNIC SOCIETIES: ASSESSING THE EUROPEAN UNION FACTOR IN ROMANIA

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Finding the right balance of minority rights has been among the most difficult issues to peacefully resolve in the post-communist transitions in Central and Eastern Europe. The European Union (EU) has been especially concerned about the protection of minority rights in its backyard and has used membership as an incentive to try to elicit such protection in prospective member states. Based on interviews, press reports, government statements, and public records, this article assesses the post-1989 development of minority rights institutions and legislation in Romania. While such issues are often evaluated from a domestic perspective, this article focuses on the role the EU and European norms played in the formulation of domestic perceptions and reforms related to minority rights and Hungarian-Romanian relations. I find that, given Romania's strong EU membership objective, criticism and requirements from the European Union and the Council of Europe have framed the domestic debate, influenced the design of institutions, affected the timing and content of legislation, and structured relations with Hungary. International human rights agreements and European norms have also become important tools in the hands of minority rights activists and non-governmental organizations, facilitating this process.

Over the last decade of post-communist transitions in Central and Eastern Europe (CEE), no issue has been more contentious and destructive than minority relations in multiethnic states. Many multiethnic societies in this region did not adjust well to the dangerous mix of poverty, freedoms,

and nationalism that emerged with the fall of communism. Consequently, fostering stability and democracy in these societies has been a central concern of the West, with admittedly mixed results. While international institutions can neither be blamed nor credited for many of the developments, it is nonetheless notable that democracy, stability, and the protection of minority rights developed much more readily in European Union (EU) candidate states than in those for which EU membership was not an option. Elsewhere I have argued that the EU has become a central element in domestic policy-making in the candidate countries.²⁵ This article assesses the influence of international norms on domestic politics and democratic consolidation, focusing on the EU role in the development of minority rights legislation in Romania. Specifically, I consider the issues that have raised the most controversy among ethnic Hungarians in this country.

Ten countries in the CEE and the Baltics signed Europe Agreements with the EU between 1991 and 1996, and some appear poised to enter the Union by 2004.²⁶ In exchange for membership, their governments have been consigned no smaller task than the complete overhaul of their political, economic, and legal systems, and approximation of their domestic legislation with over 80,000 pages of EU laws and regulations constituting the *acquis communautaire*. As noted by the Romanian Institute for Human Rights, this has meant that all of the Romanian Parliament's legislative activity, including in the "delicate and sensitive domain" of the observance and promotion of fundamental rights and freedoms, "has come under the symbol of the requirement of harmonizing and aligning Romanian legislation to the norms and normative standards of the European Union."²⁷

"Rejoining Europe" has been Romania's primary foreign policy objective since 1989 and is the one goal that has unified most political

²⁵ See Melanie H. Ram, *Transformation through European Integration: A Comparative Study of the Czech Republic and Romania*, Ph.D. Dissertation, The George Washington University, 1999; Melanie H. Ram, "Harmonizing Laws with the European Union: The Case of Intellectual Property Rights in the Czech Republic," in *Norms and Nannies: The Impact of European Organizations on Central and East European States*, ed. Ronald H. Linden (Lanham, Md.: Rowman & Littlefield Publishers, forthcoming).

²⁶ Europe Agreements (Association Agreements) were signed with Poland and Hungary (1991); Bulgaria (1992); Romania, Czech Republic, and Slovakia (1993); Estonia, Latvia, and Lithuania (1995); and Slovenia (1996).

²⁷ Romanian Institute for Human Rights (Institutul Roman Pentru Drepturile Omului), "Raport cu privire la evoluția protecției și promovării drepturilor omului în România în anul 1996," (Report concerning the evolution of protection and promotion of human rights in Romania in 1996), Bucharest, Romania, 1997, p.3-4, my translation.

parties and public opinion in the first decade of transition. Public support for EU membership in Romania remains among the highest of all candidate countries, even though the country is last in line for EU membership.²⁸ Despite the infringement of sovereignty and the tremendous tasks involved, the long-term benefits are seen to outweigh the costs. The development of minority rights in Romania offers an ideal case study of the EU influence and impact, especially because the protection of minority rights in Romania was a considerable concern of the EU from the beginning. In fact, longstanding ethnic conflicts between Romanians and the Hungarian minority had already erupted in violence in Tirgu Mures in March 1990. Tensions between the Romanian and Hungarian populations in Romania arose not only on ethnic grounds but also on territorial issues, as nationalists suggested that Hungary intended to re-annex Transylvania or that the Hungarian minority wishes to secede from Romania.²⁹ Romania may be considered a “tough” case theoretically, both because observers did not expect minority issues to be resolved quickly or easily and because Romania has been one of the furthest candidate countries from achieving EU membership, and therefore the EU may be expected to have less leverage on Romania. The Romanian case is also an important one because the country has a relatively large minority population. Almost two million ethnic Hungarians live in Romania, constituting about 7.8% of the population. Government legislation affecting the rights of Romania’s Hungarian minority has important implications not only for Romania’s democratic development, but also for the country’s relations with its neighbor, and by implication for regional stability.³⁰

Seeing minority issues as a threat to stability and democracy in the region, the EU, as well as the Council of Europe and NATO, have used membership as an incentive to enforce compliance with human rights norms and agreements by candidate countries. The ability of international organizations to bring about changes in domestic human rights policies, however, has been mixed. Moreover, the candidate countries were given no specific membership date and a mere “promise” of future membership if they fulfilled all requirements and the EU is able to accept them at that

²⁸ Public opinion polls in 2001 have measured Romanian support for EU membership at between 68% and 80%, second only to Bulgaria of the candidate countries.

²⁹ See, for example, description of letter by Gheorghe Funar, President of the Romanian National Unity Party (PUNR), as cited in “PUNR Leader Urges Outlawing, Isolating UDMR,” FBIS-EEU-94-174, 5 August 1994 (from Bucharest Radio Romania Network).

³⁰ While treatment of the Hungarian minority was therefore of most concern to the EU, the Roma or gypsies constitute another 5 to 7% of the Romanian population, and their situation has come under increasing scrutiny of the EU in recent years.

time. The central question is: Can the EU successfully “induce” minority rights protection by using future membership as an incentive?

In my research, I find that – given Romania’s strong desire to join the EU – criticism and requirements from the European Union and the Council of Europe have framed domestic debates, influenced the design of institutions, affected the timing and content of legislation, and structured relations with Hungary. International human rights agreements and European norms have also become important tools in the hands of minority rights activists and non-governmental organizations, facilitating this process and strengthening the impact of the external institution. At the same time, the impact has depended on both domestic and external mediating factors such as the activism of the minority group and its “homeland”, the particular interests of the EU, the models and degree of pressure provided by the EU and its Member States, and the waiting period for membership. Moreover, a clear dichotomy is evident between the impact on the national and on the local level, with much more noticeable effects in the former than in the latter. The divergence often requires undemocratic means to achieve democratic ends, limits the power of local communities to decide their own fate, and sometimes threatens the implementation of legislation.

The EU has influenced domestic politics in Romania both by providing a strong incentive to build institutions and reform legislation (in line with the rational choice perspective) and through the transferal of European norms in an annotated socialization process.³¹ (In the first process, NATO has also played an important role on some issues, and in the second the Council of Europe has been critical.) This article contributes first of all to the small but growing political science literature on Europeanization, which has only just begun to explore the extent and process of the EU’s domestic effects on *non*-EU Member States.³² My analysis suggests that the impact may be even larger in terms of the extent of change in prospective members than in current members. Many of the norms that have been transferred, however, have yet to be fully internalized,

³¹ For a general theoretical framework on the socialization process applied to the human rights field, see Thomas Risse and Kathryn Sikkink, “The Socialization of International Human Rights Norms into Domestic Practices: Introduction,” in *The Power of Human Rights: International Norms and Domestic Change*, eds. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge, UK: Cambridge University Press, 1999): 1-38.

³² For a theoretical analysis of Europeanization, see Tanja A. Börzel and Thomas Risse, “When Europe Hits Home: Europeanization and Domestic Change,” *European Integration online Papers (EioP)* 4 (2000), no. 15: <http://eiop.or.at/eiop/texte/2000-015a.htm>.

making implementation difficult.³³ This article also adds to the democratization literature. In showing how the EU has advanced the consolidation of democracy in Romania, I demonstrate the important role of an external variable in a process still largely, and often exclusively, studied with regard to domestic factors (such as history, political culture, civil society, electoral and party systems, and elites). I find that the EU has been not merely an “agent” but a “principal” in the transition process in Romania.³⁴ The extent and process by which external variables influence the reform of laws, institutions, norms, and the consolidation of democracy in post-communist CEE states is still relatively unexplored systematically in the literature. This article endeavors to help fill this deficit.

European Union Obligations

The protection of human rights and minority rights has been specifically addressed as a precondition for European Union membership by the Maastricht Treaty on European Union, the European Council meeting at Copenhagen, the Europe Agreements with the countries of Central and Eastern Europe, the European Union's Pact on Stability in Europe, the Common Foreign and Security Policy (CFSP) and the Amsterdam Treaty. Moreover, the Council of Europe, an organization that all EU candidate states must join, has the protection of human rights as the basis for membership and a primary focus of its activities; it is the source of various human rights and minority rights Conventions.

The Maastricht Treaty on European Union, signed on 7 February 1992, declares that “the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community Law” (Art. F). The Amsterdam Treaty, which entered into force in May 1999, added a new provision (Art. F1) which makes it possible to suspend certain rights of a Member State found to violate this principle, thus strengthening the EU's human rights requirements. Thus, as the European Commission made clear in its 1997 Opinions on the eligibility of each candidate state for EU

³³ On the influence of European norms on CEE countries, see Ronald H. Linden, ed., *Norms and Nannies: The Impact of European Organizations on Central and East European States* (Lanham, Md.: Rowman & Littlefield Publishers, forthcoming).

³⁴ These terms are used by Martha Finnemore, “International Organizations as Teachers of Norms: The United Nations Educational, Scientific, and Cultural Organization and Science Policy,” *International Organization* 47, no. 4 (Autumn 1993): 565-597.

membership, "observance of human rights is part of the *acquis communautaire*" and any state wishing to join the EU must ratify the European Convention first.³⁵ Human rights and minority rights protection were also specified by the "Copenhagen criteria." The first of three fundamental EU membership criteria, outlined at the European Council meeting in Copenhagen in June 1993 is to demonstrate "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities."³⁶

Moreover, a European Council Declaration in May 1992 stipulated that every Cooperation or Association Agreement that the EU signs with a member of the Conference on Security and Cooperation in Europe (CSCE) must contain a human rights clause. Thus, the requirement to respect human rights can be found in the 1993 Romania-EU Association Agreement as the very first "General Principle":

Respect for the democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a New Europe, as well as the principles of market economy, inspire the domestic and external policies of the Parties and constitute essential elements of the present association.³⁷

In the case of any human rights violations, the EU could use this clause to justify suspension of the Agreement.³⁸

With the signing of the Amsterdam Treaty in 1997, anti-discrimination has become a founding principle of the EU. Article 13 gives the EU a legal basis for taking action to combat discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age, or sexual orientation. The principles of Article 13 were put into effect in 2000 by an Employment Directive, a Race Directive and an Action Programme, thus introducing new anti-discrimination requirements for

³⁵ European Commission, "Agenda 2000: Commission Opinion on Romania's Application for Membership of the European Union," Brussels, 15 July 1997, DOC/97/18, sec. 1.2, p.15.

³⁶ European Council, "Conclusions of the Presidency, Copenhagen, 21-22 June 1993," DOC SN 180/93, 13.

³⁷ "Europe Agreement establishing an association between the European Economic Communities and their Member States, of the one part, and Romania, of the other part -- Final Act," 19 Dec. 1994, *OJ* No. L 357 (31 Dec. 1994).

³⁸ Michal Krejza, "The Association Agreement Between the European Community and the Czech Republic: Steps toward Czech Membership, 1990-1994" (Ph.D. dissertation, Charles University (Prague), 1994), 56.

Member States and prospective members. The Race Equality Directive will directly affect minority rights, as it stipulates equal treatment irrespective of race or ethnic origin in employment, education, housing, and other areas.³⁹ Member States must comply with this Directive by July 2003, which will require designating an institution that will promote equal treatment, provide independent assistance to victims of discrimination, and offer recommendations on racial equality. The Action Programme allocates 100 million euros from 2001-2006 to fund Member States' activities to promote racial equality. A prohibition against discrimination on ethnic or other basis is also included in the European Union's new Charter of Fundamental Rights adopted in December 2000, which was drafted to further highlight the importance Member States attach to fundamental human rights.⁴⁰

The human rights policies of Central and Eastern Europe are also a principal concern of the Council of Europe. As stipulated in its Statute of 1949, "every Member of the Council of Europe must accept the principle of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms."⁴¹ Through its special programs, the Council of Europe tries to bring the laws and institutions of these countries gradually "into conformity with European norms," which are reflected in Council of Europe conventions.⁴² The EU expects candidate countries to become members of the Council of Europe and to comply with its standards and conventions regarding human rights. The two institutions exchange information and carry out some joint programs to support mutual goals, including the protection of minorities in CEE.⁴³ The EU candidate countries for their part recognize that criticism from the Council of Europe regarding minority rights or other human rights concerns could ultimately hurt their EU membership chances.

³⁹ Council Directive 2000/43/EC of 29 June 2000, *OJ L 180* 19.07.2000, 22.

⁴⁰ "Charter of Fundamental Rights of the European Union, 2000/C364/01, *OJ*, 18 Dec. 2000, Art. 21.

⁴¹ Asbjorn Eide, *International Protection of Human Rights* (Strasbourg: Council of Europe, July 1989): 33.

⁴² Council of Europe, *The Council of Europe and Human Rights*, (Strasbourg, 1991), 31.

⁴³ See Council of Europe, "Assistance with the Development and Consolidation of Democratic Security: Co-operation and Assistance with the Countries of Central and Eastern Europe, Programme for 1997," SG/INF(97)2, Appendix 2, 169. See also Council of Europe, Report on the Implementation of the Joint Programme between the European Commission (PHARE Programme) and the Council of Europe, entitled "Minorities in Central European Countries and a Proposal for a New Joint Programme," Draft, Strasbourg, Dec. 1997.

The Council of Europe considers the European Convention on Human Rights (ECHR) and the framework Convention for the Protection of National Minorities to be two of its three most fundamental texts, the obligations of which must be honored by all member states. According to the Council of Europe's Parliamentary Assembly, it is particularly important that member states and applicants comply with Recommendation 1201 (1993) regarding the rights of national minorities.⁴⁴ Although Council of Europe recommendations are not binding, the Council's Conventions are binding upon signatories. The ECHR has thus required many members of the Council of Europe to modify their national laws and practices.

When the European Stability Pact was signed in March 1995, it was intended to promote good neighborly relations between the CEE countries and to encourage them to resolve historical disputes over minorities and borders.⁴⁵ The large Hungarian population living outside Hungary (most in Romania) and the relations between the Baltic States and Russia were the two original concerns the Stability Pact was created to address.⁴⁶ The more recent Stability Pact for Southeastern Europe adopted at the European Union's ministerial conference in Cologne on 10 June 1999 provides a framework for cooperation on a variety of issues in order to foster peace, stability, and economic development in this region. One of its three Working Tables focuses on democracy and civil society and has a Task Force on Human Rights and Minorities.

The European Union and EU Member States have communicated their expectations and opinions on minority rights in candidate states in a variety of ways that go beyond the requirements directly implied by EU treaties and legislation and international human rights agreements. Most notably, the European Commission's 1997 Opinions on the eligibility for accession negotiations of each candidate country, and the subsequent annual Regular Reports have explicitly assessed the progress and problems of prospective members in meeting membership obligations. Regular meetings at various levels between EU and country officials in the form of Association Councils, Association Committees, and Joint Parliamentary Committees, as well as ad-hoc meetings, official visits, and

⁴⁴ Council of Europe, Directorate of Information, "Honouring of Commitments Entered into by Council of Europe Member States," 14 May 1995.

⁴⁵ Joe Cook, "Stability Pact Tries Hard to Encourage Good Behaviour between Neighbours," *European Dialogue*, no.1 (Mar-Apr. 1995), http://europa.eu.int/en/comm/dg10/infcom/eur_dial/index.html.

⁴⁶ Michel Arnould, "Stability Pact: Reassuring Minorities, Guaranteeing Frontiers," *Forum*, no. 2 (June 1995): 18.

direct criticism on particular issues of concern have supplemented these Reports and treaty obligations to transmit the EU's expectations on minority rights.

Overall, human rights and particularly minority rights in CEE are of concern to the EU as partial proof of democracy and as an important element in maintaining peace and stability within countries and in the region by preventing cross border conflicts or massive emigration. In this respect, the EU is not the only relevant or influential organization affecting the domestic and foreign policies of candidate countries. The Council of Europe, the OSCE, and NATO have also played a critical and sometimes indispensable role in facilitating or catalyzing specific reforms or actions, but alone they would not be sufficient. It is the European Union – the grand goal, the perceived key to prosperity, stability, and a better future – that has justified the adoption of many otherwise unpopular measures. The Council of Europe, and on some issues the OSCE, have nonetheless been particularly important in defining European norms on minority rights and adding further pressure to adopt and implement them. NATO membership has been a goal almost equal in importance to EU membership for Romania, and possibly more attainable in the short run. For this reason, NATO has also been particularly influential in getting countries to sign “friendship treaties” with their neighbors and has promoted cooperation in the security field. Yet, due to the complex structure of the long European integration process, the regular meetings and reviews, the tremendous scope of the reforms required for EU membership, and the larger presumed long-term benefits, the EU's influence has been much more extensive and pervasive than any of these other organizations.

Steps toward the West

The goal of EU membership first of all prompted the Romanian government to apply for membership in the Council of Europe on 16 March 1990 (less than three months after the country's December 1989 revolution) and to sign major Council of Europe conventions. According to the Council of Europe, Romania was “subjected to the deepest possible scrutiny” in evaluating its application for membership, more than any past applicant, because it began “from the lowest possible base in the denial of human rights, lower even than that of the Soviet Union.”⁴⁷ The Council of

⁴⁷ Application by Romania for Membership of the Council of Europe,” *Romanian Journal of International Affairs* 1, no. 4 (1995): 89-145. Special Issue: “Romania and the Council of Europe.”

Europe supervised Romania for almost four years before offering the country membership. The Romanian government saw membership in the Council of Europe as an important first step towards EU membership, by certifying the country's democratic values and beginning to reintegrate it with Europe.

Given the importance of Council of Europe membership to Romania, the government made a number of commitments to facilitate gaining admission, including agreeing in writing to the application in Romanian law and practice of the Council of Europe's Recommendation 1201 on minorities.⁴⁸ In addition, Romania signed the European Convention for the Protection of Human Rights and Fundamental Freedoms and accepted the rights of individual petition to the European Court of Human Rights and compulsory jurisdiction, thus providing citizens an extra-national guarantee of human rights protection. The Romanian government ratified the Convention in June 1994, "in somewhat record time" according to Council of Europe Secretary General Daniel Tarschys.⁴⁹ Symbolically, Romania also signed the Framework Convention for the Protection of National Minorities the day it was opened for signatures on 1 February 1995 (the same day Romania's Europe Agreement entered into force) and was the first country to ratify this Convention in May 1995.⁵⁰ President Iliescu did not miss the opportunity to emphasize that Romania's quick signing of the Convention was "clear evidence of the responsibilities to which our country commits itself in directly assimilating European standards in these very diverse domains."⁵¹ Romania also signed the European Charter for Regional or Minority Languages in July 1995. Minority rights are protected in the

⁴⁸ Ion Iliescu, "Address on the Occasion of the Fourth Part of the 1994 Session of the Parliamentary Assembly, Strasbourg, Oct. 4, 1994," *Romanian Journal of International Affairs* 1, no. 4 (1995): 25.

⁴⁹ Daniel Tarschys, "Opening Address," *Romanian Journal of International Affairs* 1, no. 4 (1995): 34.

⁵⁰ Council of Europe, "Romania and the Council of Europe," 15 May 1997. Signing the Convention for the Protection of National Minorities was not without controversy. Romanian nationalist and President of the Romanian National Unity Party (PUNR) Gheorghe Funar had criticized the Convention as "a document designed to create concrete conditions for making Transylvania autonomous and later annexing it to Hungary." "PUNR Leader Urges Outlawing, Isolating UDMR," 5 August 1994, FBIS-EEU-94-174 (from Bucharest Radio Romania Network).

⁵¹ Ion Iliescu, "Declarația domnului Ion Iliescu, Președintele României, cu prilejul intrării în vigoare a Acordului de asociere a României la Uniunea Europeană: 1 Feb. 1995, București," in *De la Essen la Cannes: Itinerarul Strategiei Românești de Integrare Europeană* (Bucharest: Editura Academiei Române, 1995), 50, my translation.

Romanian Constitution and, significantly, international treaties or conventions on human rights that the country has ratified take precedence over domestic law and are directly binding and applicable as part of national law.⁵²

Institutional Reform and Civil Society Development

Building new government institutions to protect minority rights and include minority representatives, as well as creating NGOs to support minorities from outside the government, were necessary first steps in minority rights protection in CEE countries. The Romanian government established numerous institutions, building an important foundation for the protection of minority rights and enabling minority opinions to be heard in the formulation of government policies. Strong external criticism and the objective of Council of Europe membership prompted the Romanian government early on to demonstrate its attention to the rights of the Hungarian minority. Additional institutional reforms were made in 1996 and 1997, following the 1996 elections and preceding the EU's decision on accession negotiations. While the EU did not mandate the establishment of specific minority rights institutions, the number and focus of new institutions reflected EU recommendations or criticism of the minority rights situation and were often modeled on institutions existing in EU Member States.

Minorities were first of all given special rights of representation in Parliament, including fifteen seats reserved in the Chamber of Deputies, and a Council for National Minorities was created in April 1993. In 1996 the new coalition government included two ministers from UDMR (the Democratic Union of Hungarians in Romania, the party that represents the Hungarian minority), and one Minister from the UDMR party also became head of a Department for the Protection of National Minorities, now the Department for Inter-Ethnic Relations. The Romanian government also established an Ombudsman (People's Advocate Institution) in 1997 to address complaints on government civil rights abuses and issue recommendations on proposed amendments to existing legislation. Other institutions dealing with minority rights are the Interministerial Committee for Human Rights, Cults and National Minorities Issues (a Standing Committee of the Chamber of Deputies) and the Inter-Ministerial Subcommittee for Roma. In line with the EU's new anti-discrimination policy and Directive, the government also adopted an Ordinance in

⁵² "Constitution of Romania," 21 Nov. 1991, Arts. 11, 20.

September 2000 on preventing and sanctioning all forms of discrimination, and a Government Decision in December 2000 to establish a National Council for the Elimination of Discrimination.

When a new government came to power in November 1996, its decision to include the UDMR in its coalition was a significant development, prompted in part by concern for Romania's international reputation. While the decision was only made possible by the election of the opposition, the EU was a key reason, as President Constantinescu indicated: "the presence of the UDMR in the ruling coalition was brought about by the need to show Europe and the Hungarians a positive sign over the rights of minorities in Romania."⁵³ According to MP and Chairman of the Foreign Affairs Committee Victor Bostinaru, this decision was "good for Romania and [sets] a good example for Europe."⁵⁴ Radu Vasile, then Secretary General of PNTCD (the Christian Democratic National Peasant Party, the largest party in the ruling coalition), later Prime Minister, noted "UDMR's presence in the government was a highly effective political solution, as it has projected a positive image of Romania abroad."⁵⁵ European aspirations also may have prevented the UDMR from leaving the coalition, despite often bitter disputes and several threats to leave. As a Romanian newspaper noted, there might be negative consequences for the coalition if the UDMR quit, because this party's presence in the government "can be considered the sole success achieved on the international plane by Romania since the November 1996 elections."⁵⁶ The European Union was thus an important factor in the very design of the government, which had major implications for minority rights legislation and protection. The new Iliescu government since December 2000 also

⁵³ UDMR President Béla Markó, on the other hand, rejects the UDMR being depicted as a "showpiece" and contends that the Romanian Democratic Convention-Social Democratic Union (CDR-USD) also needed his party's votes. S.P.A., "Béla Markó Answers President Constantinescu -- UDMR is Not a Show Piece," *Adevarul* (Bucharest), 30 Oct. 1998, p. 3, FBIS-EEU-98-303.

⁵⁴ Victor Boștinăru, Member of Parliament, Chairman of Foreign Affairs Committee (Chamber of Deputies), interview by author, 28 November 1997, Chamber of Deputies, Parliament of Romania, Bucharest, Romania.

⁵⁵ "PNTCD Official Warns UDMR Against Making Further Claim," FBIS-EEU-97-353, 19 December 1997 (from *Rompres*, Bucharest).

⁵⁶ Bogdan Chirieac, "The Millstone of Extremism," *Adevarul* (Bucharest), 24 June 1998 (internet version), FBIS-EEU-98-176, 25 June 1998. A similar scenario seems to be playing out in Slovakia today, as Prime Minister Dzurinda has urged the Hungarian Coalition Party (SMK) to remain in the ruling coalition because leaving the coalition would "seriously jeopardize Slovakia's [EU and NATO] integration ambitions." "Slovak Premier Urges Ethnic Hungarian Party to Stay in Government," *RFE/RL Newslines*, vol. 5, no. 139, part II, 25 July 2001.

has cooperated with the UDMR, and this cooperation likewise has produced some positive results for minority rights, as will be discussed below.

Besides government institutions protecting minority rights, financial and technical assistance through the EU's Phare program also enabled many non-governmental organizations (NGOs) to support the protection of minority rights. NGOs have received funding through the EU's Phare and Tacis Democracy Programme and the European Initiative for Democratisation and Human Rights, which now funds most projects related to minority rights. Support through these programs supplements funding provided to NGOs through bilateral assistance and several foundations. These NGOs provide social, cultural, educational, and legal support for minority groups, attempt to improve public awareness, and independently monitor and criticize their government's actions regarding minority rights. The multitude of human rights-related NGOs that have proliferated in CEE candidate states are highly knowledgeable about their governments' international commitments and aspirations and provide an important internal force for change.⁵⁷ Thus, indirectly through financially supporting activities of NGOs, the EU and other external actors have brought about change in minority rights in candidate states.

Legislation Affecting Minorities

In Romania, minority rights laws affecting language rights of the Hungarian population, including the Education Law and the Public Administration Law were among the most contentious. Although these issues remain of concern today, the evolution of legislative reform and the "EU factor" in the debate is instructive. While these were strictly domestic issues, European norms and Romania's EU membership objective influenced this debate throughout.

The Education Law, according to former Prime Minister Victor Ciorbea, was one of the "burning issues" of Romanian society because of its important implications for minority and language rights.⁵⁸ Hungarians had continually criticized the Romanian government and the Education

⁵⁷ On the impact of democracy aid on the NGO sector, see for example, Thomas Carothers, *Assessing Democracy Assistance: The Case of Romania* (Washington, DC: Carnegie Endowment Book, 1996). Regarding international human rights norms, international organizations, and transnational advocacy networks, see Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, eds., *The Power of Human Rights: International Norms and Domestic Change* (Cambridge, UK: Cambridge University Press, 1999).

⁵⁸ "Romania: Ciorbea Wants 'More Adequate' Ties With Hungarian Ethnicities," 18 Dec. 1997, FBIS-EEU-97-352 (from Rompres).

Law because of its restrictions on teaching in the Hungarian language and establishing a Hungarian university. As expressed by a Hungarian-language newspaper in 1994, "the legislature adopted, and continues to adopt laws that gravely violate fundamental human and civil rights. ... The law on education takes first place among these measures."⁵⁹

The Romanian Parliament passed a new Education Law on 25 July 1995, just one month after the government submitted its application for membership in the European Union. Not merely the timing, but the presentation of the law reflects the intention to placate any EU criticism. The Romanian Government's Public Information Department produced a glossy pamphlet in English entitled "The New Education Law in Romania: One of the Most Democratic in Europe." In this document, the government sets forth the details of the law, emphasizing its democratic nature and European inspiration:

[The law] seeks to be modern, to combine the most democratic provisions that exist in similar laws of European nations with the tradition and specific traits of the Romanian school, considering the existing situation in Romania. It is in accordance with all the international documents Romania has signed.⁶⁰

EU criticism of the law was acknowledged in the introduction of the document, but attributed to misinformation and Hungarian bias:

Before the law was promulgated, the European Parliament, acting on an initiative of Mr. Otto von Habsburg, issued a Resolution on the protection of minority rights and human rights in Romania. Mr. von Habsburg is a well-known staunch supporter of the Hungarian interests and he ... misinformed [the European MPs] by submitting to them inaccurate data ... and an old, obsolete education Bill.⁶¹

In response to the alleged misinformation, the publication intended to provide "a clear and accurate image of this law and of the democratic

⁵⁹ Jozsef Gazda, "Viewpoint: Under the Pretext of the Romanian Hungarian Basic Treaty," *Romaniai Magyar* (Bucharest), 2 August 1994, 3, as translated in "Minority Newspaper on Treaty with Romania," FBIS-EEU-94-170.

⁶⁰ Government of Romania, Public Information Department, "The New Education Law in Romania: One of the Most Democratic in Europe," 1.

⁶¹ *Ibid.*

and humanistic principles underlying it.”⁶² Government officials proudly cited the Council of Europe’s commissioner for minorities, who evaluated the law as “elaborated on Western standards, guaranteeing all ethnic groups the right to have an education in their native language.”⁶³ As the document stated, only the Hungarian minority leaders were not satisfied with this law.⁶⁴

The production of the Education Law pamphlet demonstrates not only the need the government saw to satisfy the EU (perhaps even more so than the Hungarian minority in Romania), but also the deep understanding it had developed of international expectations and European norms. The full text of the Romanian law was included in this pamphlet, juxtaposed with excerpts from European agreements (the Council of Europe Framework Convention on the Protection of National Minorities and the European Charter for Regional or Minority Languages) and even Hungarian legislation. According to the government, the new Education Law was guided by specific European and international legal requirements, including the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, the U.N. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and Recommendation 1201/1993 of the Parliamentary Assembly of the Council of Europe.⁶⁵

It is clear that EU approval of the Romanian law was eagerly sought, both to improve EU membership chances and to quell domestic criticism of the law from the Hungarian minority, mutually reinforcing goals. Just as the Romanian government defended its domestic legislation in an international arena, the Hungarian minority party (UDMR) similarly carried out its criticism of the law in external fora. For example, UDMR sent students to protest the law at the Council of Europe’s Parliamentary Assembly in Strasbourg.⁶⁶ Thus, the EU membership objective has wholly altered the approach to domestic policy-making in Romania, making international approval a critical element.

The November 1996 elections marked an important turning point in minority rights in Romania, as Hungarian activists had considered President Iliescu to be “anti-Hungarian,” and the new government appeared much more responsive to their concerns. The Education Law

⁶² Ibid.

⁶³ “Constitution Watch: Romania,” *East European Constitutional Review* 4, no. 4 (Fall 1995), 23.

⁶⁴ “The New Education Law in Romania.”

⁶⁵ Ibid., 36.

⁶⁶ “Constitution Watch: Romania,” 23.

remained the primary concern of the Hungarian minority after the elections, and they continued to criticize its remaining limits on teaching in minority languages. As the new government brought the UDMR into its coalition, it was also concerned about the party's stance on education and language issues. At UDMR representative György Tokay's confirmation hearing for the new position of Minister for National Minority Affairs, he was questioned for five hours, mainly about his party's expectations on these issues.⁶⁷

The government revised the minority language provision of the Education Law again in 1997, this time just before the EU was to issue its Opinion on Romania's eligibility for the start of accession negotiations. With the support of the UDMR, and after long negotiations among the coalition parties, the agreed-upon amendment gave national minorities the right of education in their mother tongue at all levels from primary to university education and opened the possibility of establishing a Hungarian-language university. The opposition parties, however, in particular the Party of Social Democracy (PSDR) and the Romanian National Unity Party (PUNR), strongly opposed the law because it would expand minority rights. Thus, passing the Education Law in Parliament would have required more votes than the number guaranteed by the ruling coalition.⁶⁸ The government submitted the proposed amendment to the Senate Education Commission at the end of June 1997, but then withdrew it and instead issued an emergency ordinance (No. 36) on 10 July 1997 to bypass likely protracted debates in Parliament.

The government's Emergency Ordinance on local administration (No. 22, amending Law No. 69) approved on 26 May 1997 was another critical decision affecting minority language rights. It declared the right to use minority languages to conduct business in the public institutions of communities where at least 20% of the population belongs to this minority. This law had been changed to harmonize it with the Council of Europe's European Charter for Regional or Minority Languages, the European Charter of Local Self-Government, and Recommendation 1201.⁶⁹

⁶⁷ György Tokay, "Well-Intentioned Minority Protection," interview by Istvan Zsehranszky, *Romaniai Magyar* (Bucharest), 16 December 1996, 1, 3, FBIS-EEU-97-013.

⁶⁸ Catalin Dimofte, "Government Ordinances Galore," *In Review Romania* (July/Aug. 1997): 11.

⁶⁹ "Romania: Mother Tongue to Be Used in Local Administration," FBIS-EEU-97-146, 26 May 1997 (from *Rompres*). The Council of Europe's "Recommendation 1201" states that "in regions inhabited by a substantial number of persons belonging to a national minority, they are entitled to use their mother tongue in their relations with administrative authorities" (Art. 7, par. 3).

The progressive changes in the law were made during a three-day Council of Europe Parliamentary Assembly meeting in Bucharest that coincided with a visit of the President of Hungary. The Romanian government asked the Council of Europe to monitor the new legislation and assist with its implementation.⁷⁰ This took place less than two months before the European Commission issued its Opinion.

The Romanian government received positive reviews from abroad with the adoption of these two Emergency Ordinances in 1997. The Hungarian Minister of Education and Culture, for example, congratulated his Romanian counterpart and the Romanian government for "the successes they have achieved in mother-tongue education."⁷¹ Otto von Habsburg, the European MP cited by the former government as critical of the 1995 Education Law also expressed his approval of the changes: "Your new cabinet has made a very good impression, especially through the way it treats minorities."⁷² The European Commission recognized these positive reforms in its July 1997 Opinion, although it did not recommend the start of accession negotiations with Romania. Romania's September 1997 response to this Opinion, preceding the European Council's final decision on accession in December, lists the minority language provision of its public administration law "conforming to European norms," as among the country's important achievements.⁷³

The Emergency Ordinances, however, remained "bitterly contested" by Romania's opposition parties, and the government could not prevent subsequent debates in Parliament to amend them.⁷⁴ By September 1997, the Senate Education Commission had reopened discussion of Art. 120 of the Education Law, and UDMR representatives walked out in protest against efforts to overturn the improvements brought about by the emergency ordinance. On 16 December 1997, over strong objections of President Constantinescu, the Romanian Senate voted 105 to 19 for important limitations to the government decree amending the Education

⁷⁰ Council of Europe, "Assistance with the Development and Consolidation of Democratic Security: Cooperation and Assistance with the Countries of Central and Eastern Europe, Programme for 1997," n.d., SG/INF(97)2, 73.

⁷¹ "Hungary: Education Minister Sends Note to Romanian Counterpart," FBIS-EEU-97-192, 11 July 1997 (from Duna TV, Budapest, 10 July 1997).

⁷² "Your President is an Excellent Man,' Says Otto Van Habsburg," *Romania Libera*, 8 Sept. 1997, No.16, p.2.

⁷³ Government of Romania, "Opinion du Gouvernement de la Roumanie Concernant L'Agenda 2000," September 1997, 6, my translation, emphasis added.

⁷⁴ "PRM Opposes Education Law Changes as Excessive," FBIS-EEU-97-196, 15 July 1997 (from Rompres).

Law, including ruling out the establishment of a minority-language university or faculty.

As the Chamber of Deputies continued debate on these issues throughout 1998, clear European norms on the most disputed topic of the Education Law – the establishment of an independent state-funded Hungarian language university – might have made the resolution of this issue easier. But when Max van der Stoep, OSCE High Commissioner for National Minorities, was questioned on whether or not such a university is required by Romania's international commitments, he explained that "there is no such international norm, which would instruct Rumania as to what it should do ... the Rumanian government and Parliament, and the relevant educational, cultural and social factors have to make the decision in light of needs of persons belonging to national minorities."⁷⁵

After ongoing debates and threats by UDMR to leave the government coalition, the Education Law was again amended in June 1999 to reflect the original Ordinance, establishing minorities' right to education in their mother tongue at all levels of education as well as the possibility to establish multicultural state universities. While the establishment of a separate state-funded Hungarian language university is currently unlikely, plans are underway to establish a private university in Transylvania with economic support from the government of Hungary. Meanwhile, the nationalist Greater Romania Party (PRM) recently supported a legislative initiative that would prevent any university from being accredited without also having a Romanian language chair. Interestingly, the ruling Social Democracy Party of Romania (PDSR), which had supported draft legislation in 1999 that matched this initiative, now supported UDMR's efforts to oppose this bill.⁷⁶

The local public administration law also continued to be debated after the issuance of the 1997 Emergency Ordinance before finally entering into force in the previous EU-approved and UDMR-supported form on 23 May 2001. This result was achieved under the second Iliescu government, elected at the end of 2000, in which the UDMR does not participate. The adoption of the Public Administration law was considered a strong victory for UDMR and for its cooperation with the ruling PDSR. Politicians and news reports had again stressed the necessity of adopting this legislation in order to apply European standards and Council of

⁷⁵ *HHRF Hungarian Human Rights Monitor*, 8 February 1998 (from *Szabadság* (Cluj), 10 February 1998).

⁷⁶ "PRM Bill Proposes Hungarian-Language Universities Have Romanian Chairs," *Evenimentul Zilei*, 28 Feb. 2001, FBIS-EEU-2001-0228.

Europe requirements in Romania. The implementation of the law, however, remains in question, with Cluj Mayor Gheorghe Funar vowing to prevent its enforcement and President Iliescu vowing not to let Funar obstruct the law.⁷⁷

The UDMR had signed an agreement with the ruling PDSR in December 2000 supporting the new government. In the agreement, both parties pledged to accelerate economic and EU integration and expressed their commitment to increased decentralization of public administration (including adoption of the public administration law), private property restitution, and expanding Hungarian-language education.⁷⁸ In March 2001, the UDMR noted both "positive results" of its support of the PDSR and concern over "nationalist rhetoric" and local government actions that could threaten its cooperation.⁷⁹ But by July 2001, the UDMR and the ruling party reevaluated and reconfirmed the success and necessity of their continued cooperation.⁸⁰ EU and NATO membership remains an important joint objective of the two parties.

The Romanian government's acceptance of Hungarian language rights and cooperation with the Hungarian minority party exemplifies how difficult domestic reform issues in this country's post-communist transition were deeply affected by international factors, the EU membership objective above all. While certain concerns remain, laws affecting the use of minority languages were directly influenced, even "triggered" by European Union requirements or expectations, according to Romanian human rights observers, and demonstrated by the above cases.⁸¹

Relations with Hungary

In considering the factors affecting Hungarian minority rights in Romania, one can not ignore the role of the external national "homeland,"

⁷⁷ See for example, "Romanian President Views Hungarian-Romanian Relations," *Budapest Magyar Hirlap*, 20 Feb. 2001, p.8, FBIS-EEU-2001-0220.

⁷⁸ "Rumania: Transylvania/Erdély," *Hungarian Human Rights Monitor (HHRF)*, 27 December 2000.

⁷⁹ "Ethnic Hungarian Party Leader Criticizes 'Nationalist Rhetoric' in PDSR." *RFE/RL Newsline*, vol. 5, no. 63, part II, 30 March 2001.

⁸⁰ "Ruling PSD, Ethnic Hungarian Party in Romania Agree Cooperation 'Success,'" *Bucharest Ziua*, Internet version, FBIS-EEU-2001-0712, 12 July 2001. The ruling party became the PSD (Social Democracy Party) in June when the PDSR merged with the PSDR.

⁸¹ Nicolae Stefanescu-Draganesti, President, The League for the Defence of Human Rights (L.A.D.O.), interview by author, 15 Oct. 1997, Bucharest; Ion Iacos, Romanian Helsinki Committee Center for Human Rights, interview by author, 16 Oct. 1997, Bucharest.

as the Hungarian government has also been a strong proponent of the rights of ethnic Hungarians abroad.⁸² But as in domestic politics, the EU factor has played a central mediating role in the relationship between Romania and Hungary, a relationship usually focused on minority rights issues. The two countries' relations have been closely shaped by their Euro-Atlantic integration objective, and in this case NATO sometimes played an equally important role. At strategic points in the relationship between Romania and Hungary, the EU has been critical as a source of norms and requirements, an incentive for cooperation, and a "referee" when disputes have broken out.

Normalization of relations between Romania and Hungary began with the first round of talks on the Hungarian-Romanian treaty in May 1991. These talks, however, dragged on for years, and even by 1995 expectations for a warming of relations with Hungary remained dim. Yet, the common incentive of Euro-Atlantic integration made it possible for entrenched disputes to be resolved peacefully and relatively quickly considering the depth and duration of animosity between the two countries.

The main deterrents to concluding a friendship treaty were Romania's insistence that it include a clause on border inviolability and Hungary's conditions of guaranteeing certain minority rights in Romania and including Council of Europe Recommendation 1201 in the Treaty.⁸³ Opposition parties in both countries, especially nationalist groups, boisterously objected to making any concessions and strongly condemned the draft treaty. While President Iiescu had also refused to include Recommendation 1201 in the treaty, he later accepted this Hungarian demand with the compromise of attaching a joint interpretation barring the granting of "collective rights" under the treaty. The final treaty confirmed that Romania and Hungary "have no territorial claims on each other and that they shall not raise any such claims in the future."⁸⁴ The minority rights addressed in the treaty are clearly based on the norms embodied in

⁸² On the role of the national homeland in minority politics, see especially Rogers Brubaker, "National Minorities, Nationalizing States, and External National Homelands in the New Europe," *Daedalus* 124, no. 2 Spring 1995): 107-132. While others have analyzed the influence of Hungary on Romania's minority rights, the EU aspect of this relationship is often overlooked.

⁸³ Dan Ionescu, "Romania Complains About Treaty Talks with Hungary," *RFE/RL*, September 1, 1994; and Edith Oltay, "... While Hungary, Romania Continue to Disagree," *OMRI, RFE/RL Newslines*, 17 March 1995.

⁸⁴ "Treaty between the Republic of Hungary and Romania on Understanding, Cooperation and Good Neighborhood," 16 September 1996, Art.4, <http://193.6.118.39/dokumentumok/asz-ro-e.htm>.

various international agreements, including the Council of Europe's Framework Convention for the Protection of National Minorities.

The Romanian Senate ratified the Treaty on 26 September 1996, just ten days after it was signed. The Party of Romanian National Unity (PUNR) and a number of senators from the Socialist Labor Party, the Greater Romanian Party (PRM), and the UDMR voted against it. The Romanian Chamber of Deputies adopted the Treaty a week later by a vote of 159 to 1, although UDMR abstained, and PUNR and PRM did not participate. Given the domestic opposition, the Treaty's adoption was regarded as a major accomplishment, despite its shortcomings and the many issues that remained to be addressed.⁸⁵ As a Radio Free Europe news report pointed out, "that the two nations, adversaries for decades over border and minority questions, were able finally to agree on a common text has surprised many observers and analysts, who doubted their ability to surmount in a few years time difficulties that appeared insurmountable for decades."⁸⁶ The Treaty's adoption was not only a significant achievement, but also a blow to the nationalist aspirations of some domestic groups.

The Chairman of the Foreign Affairs Committee of Romania's Chamber of Deputies credited "political leadership" as necessary for the final agreement, while pointing out that "the EU and NATO helped to increase the commitment for cooperation with neighbors."⁸⁷ Others were more emphatic about the EU's influence. While in previous years, according to the Romanian Helsinki Committee, "political considerations prevailed to the detriment of national minorities' rights,"⁸⁸ the final agreement signed "between long-hostile neighbors" on 16 September 1996

⁸⁵ For example, then opposition deputy in the Hungarian Democratic People's Party and former Foreign Minister Jeszenszky pointed out that "the treaty fails to guarantee education in the native tongue for children of all ages, does not mention the reopening of a Hungarian university and consulate in Romania, ignores questions about the return of Hungarian assets confiscated by the Romanian government, does not address the issue of Hungarian national symbols in Romania, and does not contain any supervisory mechanisms," but he and his party did not oppose its ratification. Ben Slay, "Former Hungarian Foreign Minister on Basic Treaty," *RFE/RL Newslines*, 18 September 1996.

⁸⁶ Joel Blocker, "Romania/Hungary: Historic Basic Treaty Signed Today," *RFE/RL*, 16 September 1996, <http://www.rferl.org/nca/features/1996/09/F.RU.960916161658.html>.

⁸⁷ Victor Bostinaru, Member of Parliament, Chairman of Foreign Affairs Committee (Chamber of Deputies), interview by author, 28 November 1997, Chamber of Deputies, Parliament of Romania, Bucharest.

⁸⁸ *Human Rights Developments in Romania: The Activities of the Romanian Helsinki Committee (APADOR-CH): 1996 Report*, 51.

“sprang less from goodwill than cool pragmatism.”⁸⁹ Everyone recognized that the Treaty was “vital for the two countries' aspirations to join the EU and NATO”⁹⁰ and government officials in both Romania and Hungary declared it would “raise their international standing, enhance regional stability, and boost trade relations.”⁹¹ In fact, a commitment to each other's Euro-Atlantic membership drive was one of the conditions President Iliescu had considered essential to any reconciliation pact with Hungary.⁹²

Both Romania and Hungary recognize the benefits of having their neighbor join the EU and NATO, and joint cooperation towards Euro-Atlantic integration was thus an important issue on which to build relations. As Hungarian President Arpad Goncz stated, “Romania's integration into NATO and the EU is a vital issue for Hungary.”⁹³ Hungary's Federation of Young Democrats-Hungarian Civic Party (FIDESZ-MPP) also stressed that “it is in Hungary's interest for NATO and EU expansion to be continued, and it is in our interest that the integration process of our neighbors – including that of Romania – be speeded up.”⁹⁴ It is suspected that any remaining concerns about the treatment of Romania's Hungarian minority would be easily resolved within the EU, and increased economic and political cooperation within the EU would further fortify relations. The Romanian government for its part recognizes that its ties to Hungary may be its strongest connection to the EU, since Hungary will presumably join the EU first. EU membership remains a prime motivation for cooperation between these two countries.

Hungary's adoption in June 2001 of new legislation on the status of ethnic Hungarians in neighboring countries, the so called Status Law, has been the biggest threat to stable relations between Romania and Hungary since the signing of the Friendship Treaty. The new law, which will enter into force in January 2002, will extend certain health, education, transportation, and employment benefits to ethnic Hungarians in

⁸⁹ Michael J. Jordan, “Hungary and Romania Get an Offer They Can't Refuse: Make Up,” *Christian Science Monitor*, 4 Oct. 1996, 6.

⁹⁰ Dan Ionescu, “Romanian Senate Ratifies Treaty with Hungary,” *RFE/RL Newslines*, 27 September 1996.

⁹¹ Jordan, “Hungary and Romania Get an Offer They Can't Refuse,” 6.

⁹² Embassy of Romania, “Romania Seeks Reconciliation with Hungary,” 30 August 1995, <http://embassy.org/~romania/press/rel-0002.html>.

⁹³ As quoted in Bogdan Chirieac, “Export of Extremism from Hungary?” *Adevarul* (Bucharest), 28 January 1998 (Internet version), as translated in “Romania: Daily Views Development of Romanian-Hungarian Relations,” 28 January 1998, FBIS-EEU-98-028.

⁹⁴ I.E., “Romanian Protest, FIDESZ Denial,” *Nepszabadsag* (Budapest), 28 May 1998, p.3, as translated in “Hungary: FIDESZ Official: Party Intends to Respect Basic Treaties,” 28 May 1998, FBIS-EEU-98-148.

Hungary's neighboring non-EU countries.⁹⁵ Under the law, local ethnic Hungarian organizations would issue a "Hungarian card" to those who prove their Hungarian identity.

The European Union has been involved in the Status Law issue as well. It should be noted that Hungary's pending EU membership is the main reason for the adoption of the law at this time, as it is intended to prevent massive emigration of ethnic Hungarians to Hungary from neighboring states upon EU membership. At the same time, Romania's more distant EU membership is one reason for the government's disapproval of the law; Slovakia has shown less concern because it expects to join the EU more quickly and would not be affected by the law once it joins. As is usual for an EU candidate state, Hungarian officials attained advance approval from the EU of the law's EU compatibility (while criticism has been raised that the Hungarian government did not, however, fully discuss the law with Romania before its adoption). Similarly, in response to the law's adoption, Romanian officials have taken their case against it to the European Commission and the Council of Europe, claiming it discriminates against the ethnic majority, violates Romania's territorial integrity, and contradicts European conventions on minorities.⁹⁶ The Romanian government has particularly pointed out that the law would not be valid in EU Member States because it would be considered discriminatory, and therefore to be in line with EU norms it should not be applied in Romania either. Finally, as a result of the growing tensions the Status Law has caused, the EU has now required the Hungarian government to reach compromise agreements with Slovakia and Romania before the law enters into force. As European Commission Director-General for Enlargement Eneko Landaburu stated, the law "appeared to be in line with EU regulations," but it is "very important that Hungary and its neighbors take normal diplomatic steps to solve their problems at a bilateral level."⁹⁷

Assessing the Limitations to EU Influence

In the debates over some of the most controversial post-communist minority concerns in Romania, the EU significantly influenced the political debates and resultant policies, as well as relations with

⁹⁵ The law will not be applied in Austria because EU Member States can not discriminate against citizens on ethnic grounds, and because Austrian Hungarians have a higher standard of living than Hungarians in Hungary. "A Privileged Diaspora?" *TOL, Week in Review*, 19 - 25 June 2001, <http://www.tol.cz/week.html>.

⁹⁶ "Romania Moves Resolution Against Status Law at Pace ... And Premier Complains to EC," *RFE/RL Newslines*, vol.5., no. 122, part II, 27 June 2001.

⁹⁷ "EU Official Says Hungary Must Reach Accord with Neighbors on Status Law," *RFE/RL Newslines*, vol.5., no. 125, part II, 2 July 2001.

neighboring countries, as demonstrated by the above cases. This is not to suggest, however, that all minority issues have been resolved in the EU candidate countries. Both the EU's approach and certain domestic factors have imposed limits on the overall impact of the EU membership objective and requirements and the influence of European norms on the protection of minorities.

First, minority rights representatives and the ethnic minority's "homeland" both play an important role in bringing international attention to issues of their concern. The EU's own degree of interest and pressure on the candidate country also matters. Thus, more activist and organized minority groups are more successful at using the EU membership objective as a tool to attain greater rights. The Roma, for example, gained much less EU attention until the past few years (when their massive emigration from CEE generated headlines), and therefore they found much less improvement of their situation. This is in part because, unlike the ethnic Hungarians in Romania, the Roma do not as yet have a coordinated domestic political agenda or approach to minority issues. The Roma were thus slower to advance their concerns to the attention of their government or to the EU, and they were less likely to be heard when they did. While they have the support of a number of domestic and international NGOs, they also lack the support of an ethnic homeland. The EU, moreover, was more concerned *at first* with cross-border minorities, which posed a threat to regional stability. Addressing the situation of other minorities did not appear to be an urgent matter. As the EU has now turned its attention more to Romani rights in CEE candidate states, Romania has also begun to address discrimination against this minority.⁹⁸ In general, Romanian human rights observers also agree that the extent of actions of the Romanian government on human rights issues has tended to depend on the human rights agenda of the European Union; the issues the government most readily addressed were those that the EU considered especially important. At the same time, Hungarian activists, the Hungarian minority party, and the Hungarian government have all helped to promote attention to Hungarian minority interests, and this — in coordination with the EU's interest and concern for regional stability — has advanced their cause.

⁹⁸ For a summary of the key problems confronted by the Roma in Central and Eastern Europe, see Melanie H. Ram, "The Roma in Central and Eastern Europe," policy paper, International Research and Exchanges Board (IREX), March 2000. Details on their situation can be found in the U.S. Department of State's Annual Country Reports on Human Rights Practices, released by the Bureau of Democracy, Human Rights, and Labor.

Second, the mixed record and approaches to the protection of minority rights in EU Member States and the sometimes vague EU requirements made quick resolution of these issues more difficult. There is a lack of set European or international standards on how to address a number of practical minority issues, including minority language education, collective versus individual rights, and autonomy versus integration. Moreover, certain EU Member States have equally poor or worse protection of minority rights than candidate states, serving as poor models.⁹⁹ Thus, in CEE both those who sought special protection of minority rights and those who opposed it looked for and found European models to justify their particular stance. Activists and even government officials who looked to the West to provide clear guidance on the specific expected reforms and easily transferable models to emulate were often frustrated.

Third, while EU concern regarding Hungarian minority rights bolstered the government's ability to adopt controversial but EU-friendly legislation, it also moved decision-making power from the local to the national level (antithetical to the EU's subsidiarity principle) and from the Parliament to the President, advancing the so-called democratic deficit. This can be seen in Romania's case especially by the use of Emergency Ordinances to comply with EU requirements. New rights were granted and protected, as dictated from abroad, with the effect of bypassing public opinion, at least temporarily. Little effort was made to change attitudes and opinions among the general population. Moreover, government support for EU membership and European norms on minority rights at the national level have not been matched with support at the local level from either local officials or the public. The rhetoric of ultra-nationalist Cluj Mayor Gheorghe Funar is in sharp contrast to the statements and actions of central government officials. While the outcome of the EU's pressure has generally been positive, more widespread public support will be necessary to implement and sustain the protection of all minorities, as well as other reforms. Efforts to educate the general population about the reasons for the government's European integration objective and to teach the values of equality and non-discrimination would help to reduce the need for Emergency Ordinances and decrease the problems of enforcement of controversial laws on the local level. While nationalist

⁹⁹ As evidence, see the recent assessment by the International Helsinki Federation for Human Rights (IHF), "Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America," Report 2001 (Events of 2000), www.ihf-hr.org.

parties remain a prominent factor on the Romanian political scene, if legislative reform were paired with education and information, it would facilitate changes in behavior and attitudes.

Fourth, the objective of membership must remain attainable and the benefits tangible in order to continue to provide any real incentive for reform. European Commissioner for Enlargement Günter Verheugen recently announced that up to ten countries have a realistic possibility of joining the EU in 2004, leaving out only Romania, Bulgaria, and Turkey of the current candidate states. Because the EU has such a strong influence over minority rights (and a multitude of other issues) in candidate states, it is important that "second wave" countries such as Romania continue to see the benefits of making compromises and sacrifices for EU membership. While in some cases, Romania has been prompted to make greater reforms than other CEE countries because it is further from EU membership and must "prove" its worthiness, the acknowledged distance from joining may also discourage such efforts or prevent the implementation of adopted legislation. For example, while preparation for the EU's July 1997 Opinion provided a major impetus for reforms at the beginning of that year, the rejection by both the EU and NATO in the middle and end of 1997 was a source of considerable disillusionment in the country, and nationalist parties used the opportunity to boost their cause. According to public opinion polls, these parties gained considerable popularity in Romania only in 1998, and the country came close to electing an ultra-nationalist President in the latest elections. With the reelection of Iliescu as President in 2000, some policy changes may be expected, but as long as EU membership remains the priority objective of the government (which it has so far), the domestic policy can not sway too far on issues critical to EU membership. While the Romanian government has much work to do to speed up the country's European integration, the door to Romania's membership must remain open as an important force for continuing political and economic reform.

Conclusion

Overall, the European Union has had a number of significant direct and indirect effects on the protection of minority rights in Romania. First, Council of Europe membership conditions required certain legislative reforms and the signing of various international treaties, including the European Convention on Human Rights and Fundamental Freedoms (with the rights of individual petition and compulsory jurisdiction) and the framework Convention for the Protection of National Minorities. These

agreements on minority rights added new obligations for the government and gave citizens new means of protecting their rights outside of the national arena. They also served as important sources of European norms on minority rights and a basis for domestic legislation. Moreover, they gave NGOs and minority rights activists, as well as like-minded government officials, a powerful tool to promote changes in domestic legislation, given the country's EU membership objective. Second, the Romanian government established various institutions to protect minority rights, and after the 1996 elections the new government received high praise from abroad for inviting the UDMR into the government coalition.

Furthermore, as evidenced by the Education Law and Public Administration Law, the Romanian government revised domestic legislation in response to international and EU criticism and based on European norms, despite strong domestic opposition to such reforms. While there have been many tensions on these issues, and they were resolved neither easily nor quickly, the preferred outcome of external institutions has eventually prevailed. Throughout the process, the government made strong efforts to develop legislation that would attain international approval and to convince the EU that its new policies were fully consistent with European norms. Both the government and the minority saw the need to lobby the EU and other European bodies to defend their particular position, and the government's decisions were often made directly following EU criticism or prior to important EU decisions regarding enlargement. In the end, adopting EU-compatible legislation first required the government to issue emergency ordinances to ensure the laws would not be rejected by Parliament.

For all of Romania's transition difficulties, improvement in the country's human rights situation from the most dismal level in 1989 has been steady and dramatic. Over the past decade in Romania, the central government's attention to the interests of the Hungarian minority has increased, although local level officials have been much more intransigent. Despite occasional setbacks, the rights of ethnic Hungarians in Romania have improved considerably, and the Hungarian minority party continues to cooperate with the ruling party. If minority rights may be considered one essential aspect of a democracy, it is notable that all of the EU candidate countries in Central and Eastern Europe have fared better than non-candidate post-communist countries on measures of these and other civil and political rights. Romania has advanced steadily in Freedom House's democracy ratings since 1989, despite its laggard position among the candidate states for EU membership, and the country has far surpassed

initial dismal expectations on minority rights as well as other civil and political rights.¹⁰⁰

My research has shown that, despite certain limits, Romania was able to peacefully manage and address the minority rights concerns expressed by its population and the international community, and the EU played a principal role in Romania's policy-making process. While a number of minority concerns remain and implementation of legislation has been incomplete, it is clear that the EU helped begin the process of addressing such concerns. This process has become stronger and more institutionalized year by year and improvements in minority rights are evident. Importantly, the EU and the Council of Europe put unresolved and potentially destabilizing minority concerns on the domestic policy agenda and have kept them there; they encouraged domestic discussion and Parliamentary debate on issues that might have otherwise festered. In addition, the EU remains an important factor in Romania's relations with Hungary, continuing to provide an incentive for cooperation on minority rights as well as other issues. In sum, the European Union membership objective influenced the agenda, the domestic debate, and the timing and content of legislation on issues central to consolidating democracy and maintaining stability in a multiethnic state. The deep impact of the European Union and European norms has been possible because of Romania's strong desire to "rejoin Europe," and has been demonstrated even years before any guarantee of future EU membership.

¹⁰⁰ For initial expectations, see for example, Mary Ellen Fischer, "The New Leaders and the Opposition," in *Romania after Tyranny*, ed. Daniel N. Nelson (Boulder: Westview Press, 1992), 45, and Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991), 270-279. For Freedom House ratings, see "Freedom in the World Country Ratings: 1972-3 to 2000-01," <http://www.freedomhouse.org>.