

European Minorities and the Estonian Law on Cultural Autonomy for National Minorities

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Introduction

In 1925, after years of parliamentary debates, Estonia responded to the challenge of ethnic diversity that the newly created nation-states in Europe faced by introducing the law on cultural autonomy for national minorities. Being aware of the innovative nature of the law, its architects coined it a framework law (*Rahmengesetz*) to be amended in the future once there has been substantial practical implementation experience. The law enabled national minorities to independently administer and fund through taxation their cultural and educational affairs. Already at the very first meeting in 1925 in Geneva the European Nationalities Congress that had been founded among others by the Baltic Germans who had drafted the Estonian law passed a resolution advocating cultural autonomy for national minorities in European states. In 1931, Congress discussed the Estonian experience and proposed the League of Nations to assess the Estonian law more thoroughly and take further steps to find a working solution to Europe's nationalities question based on Estonian legislation.

My paper examines the debates over cultural autonomy as a minority protection model in connection with one of the most important advocates of the model, the European Nationalities Congress. The paper will focus on critical voices regarding the cultural autonomy model among minority activists – a topic that has found less attention in the historiography about the Estonian cultural autonomy and European Nationalities Congress. More specific focus is on the voices from minorities in Germany, namely on a Sorb activist Jan Skala who was one of the most vocal critics of the Congress. These fierce attacks help to understand the complexities of building a strong minorities movement in interwar Europe. Furthermore, the critique about the cultural autonomy model helps to shed some light not only on the historical understanding of the model but also on some more broader issues regarding minority protection and implementing the specific model.

From Estonian Law on Cultural Autonomy to European Nationalities Congress

The Estonian Law on Cultural Autonomy for National Minorities adopted in 1925 enabled national minorities to establish cultural self-governments (*kultuuroomavalitsus*). These were bodies of public law part of the state administration. Through these bodies, minorities could independently organise and manage schooling, publishing, cultural life. The respective minority elected and governed the institutions themselves and financed their activities through taxation.

One of the core elements of cultural self-government was the national register (*rahvusnimekiri, Nationalkataster*). Since the constitution had declared that each individual could freely determine their ethnic belonging (§20), enrolling on the respective national register was a voluntary decision of the individuals. Registered citizens elected the Cultural Council (*kultuurnõukogu*) which had a minimum of 25 and a maximum of 60 members. The Cultural Council decided the most important questions

regarding the minority self-government such as approving the budget. The Cultural Council also elected a Cultural Government, the executive of the autonomy. Cultural Government (*kultuurvalitsus*) was headed by the president. Cultural autonomies were subordinated to the ministry of interior affairs and the president's status was equal to the head of a department of the ministry. The powers of the autonomies were strictly limited to cultural affairs and autonomies were not allowed to deal with other political affairs which remained at the hands of political parties. Cultural self-government had the right to levy taxes on those who had enrolled on the registry of the minority. It was financed to keep up the cultural government institutions, but also to finance schools etc. This autonomy model was non-territorial in its core since a group of people (personality principle), not a certain part of the country (territorial principle) was the carrier of the autonomy and acted as a body of public law. Two minorities, the Germans and Jews took advantage of the law and established their self-government organs. The German Cultural-Self Government was abolished in 1939 when Germans left with *Umsiedlung*, Jewish Cultural Self-Government was abolished in 1940 during the Sovietization process.¹

Estonia's interwar autonomy for minorities was one of the best examples of Karl Renner's and Otto Bauer's ideas in practice.² Renner and Bauer had proposed a combination of non-territorial and territorial autonomy for the Habsburg Empire at the turn of the century.³ For them, it served as a tool to keep the empire together and to avoid disentangling it to separate nation-states. Furthermore, since clear-cut territorial nation-states or territorial autonomy were nearly impossible to achieve in certain ethnically mixed regions, non-territorial autonomy was a tool to disentangle a nation from the territory to avoid monopoly of one nation over the territory. Minority activists and politicians of the interwar era often argued that the Estonian law was an exemplary case in dealing with ethnic minorities within a nation-state. Furthermore, many recent studies emphasise that in the context of interwar nation-states, it was relatively minority-friendly legislation and that it is one of the best examples of non-territorial arrangements in practice.⁴

The Estonian law was passed thanks to the tireless efforts of the Baltic German activists in Estonia, in particular, Werner Hasselblatt and Ewald Ammende played the main role.⁵ The latter, Ewald Ammende

¹ The law has been published several times in Estonian, German, Russian etc. An English translation can be found here 'Law on the Cultural Autonomy of Racial Minorities in Esthonia', *League of Nations - Official Journal*, 6, 1925, 788–91; for an overview of the institutions and the practice of autonomy see e.g. David James Smith and John Hiden, *Ethnic Diversity and the Nation State: National Cultural Autonomy Revisited*, Routledge Innovations in Political Theory, 44 (London; New York: Routledge, 2012), pp. 26–69; David J. Smith, 'Estonia: A Model for Interwar Europe?', *Ethnopolitics*, 15.1 (2016), 89–104 (pp. 94–96).

² Smith.

³ For an early version of Renner's ideas see: Synopticus [= Karl Renner], *Staat und Nation. Zur österreichischen Nationalitätenfrage. Staatsrechtliche Untersuchung über die möglichen Principien einer Lösung und die juristischen Voraussetzungen eines Nationalitäten-Gesetzes* (Wien: Dietl, 1899); for a more territorial model by Renner see: Rudolf [= Karl Renner] Springer, *Der Kampf der österreichischen Nationen um den Staat. Das nationale Problem als Verfassungs- und Verwaltungsfrage* (Leipzig, Wien: Deuticke, 1902); for a more Marxist version of non-territorial autonomy see Otto Bauer, *The Question of Nationalities and Social Democracy [1907]* (Minneapolis: University of Minnesota Press, 2000).

⁴ see e.g. John Coakley, 'Introduction: Dispersed Minorities and Non-Territorial Autonomy', *Ethnopolitics*, 15.1 (2016), 1–23 <<https://doi.org/10.1080/17449057.2015.1101842>>; Martyn Housden, 'Ambiguous Activists. Estonia's Model of Cultural Autonomy as Interpreted by Two of Its Founders: Werner Hasselblatt and Ewald Ammende', *Journal of Baltic Studies*, 35.3 (2004), 231–53 <<https://doi.org/10.1080/01629770400000091>>; Smith.

⁵ Martyn Housden, *On Their Own Behalf: Ewald Ammende, Europe's National Minorities and the Campaign for Cultural Autonomy 1920-1936* (Amsterdam ; New York (N.Y.): Rodopi, 2014), pp. 83–111.

was also the leading initiators of establishing the European Nationalities Congress in 1925 and acted as the secretary until 1936.⁶

For the European Nationalities Congress, non-territorial autonomy, derived from Karl Renner and Otto Bauer, was the central minority protection model they endorsed.⁷ However, their approach was not limited only to this model as already in 1925, in their first resolutions, they proposed that the minorities should have a right to establish “bodies of public law organised either based on territory or persons based on the respective situation”.⁸ Nevertheless, cultural autonomy and in particular the positive approach to the Estonian law remained the core of their activities. In 1931, Congress held a special session “The Experiences with the Estonian Law on Cultural Autonomy for Minorities during the 6 years since passing the law” which gave an overall positive assessment.⁹

After the discussion, Congress passed a resolution:

“Der Kongreß entnimmt diesen Erklärungen, daß die Kulturautonomie von den Volksgruppen Estlands ebenso positiv bewertet wird, wie von dem estländischen Staat, daß ferner das Gesetz die Wirkung gehabt hat, die kulturellen Fragen aus der politischen Sphäre herauszunehmen und daß die Möglichkeit der Kulturpflege durch die Volksgruppen auch eine günstige Einwirkung auf die allgemeine politische Befriedung und die Achtung von Volk zu Volk ausgeübt hat. Der Nationalitätenkongreß hält es auf Grund dieser gutachtlichen Äußerungen für notwendig, daß der Völkerbund die in Estland erfolgreich bewährte Kulturautonomie auf ihre Anwendbarkeit in anderen Staaten Europas überprüft und die geeigneten Schritte unternimmt, um die Erfahrungen in Estland für die Lösung des gesamteuropäischen Nationalitätenproblems fruchtbar zu machen.”¹⁰

As seen from the resolution, one of the broader aims of the European Nationalities Congress was to convince the League of Nations of the usefulness of the cultural autonomy model in solving the minority question in Europe. In 1931, the League of Nations finally took a closer look at Congress and on the cultural autonomy model. Ludvig Krabbe from the Minorities Section compiled a memorandum.¹¹ Instead of a strong endorsement of the model that Congress was hoping to see, Krabbe presented a rather critical insight. Krabbe was critical about how Congress had treated the Estonian case in the 1931 meeting as there had been no proper critical discussion over the model. Krabbe argued that while the Estonian law was an interesting attempt to minimise conflicts between the nations, it was not a model suitable for all minorities and applicable in all states since minorities differed in their social, economic

⁶ Smith and Hiden, pp. 70–75; Housden, *On Their Own Behalf*, pp. 139–68; David Smith, Marina Germane, and Martyn Housden, “‘Forgotten Europeans’: Transnational Minority Activism in the Age of European Integration”, *Nations and Nationalism*, 25.2 (2018), p. 4.

⁷ see e.g. Xosé M. Núñez Seixas, ‘National Minorities in East-Central Europe and the Internationalisation of Their Rights (1919-1939)’, in *Nationalism in Europe. Past and Present*, ed. by Justo Beramendi González, Ramón Máiz Suárez, and Xosé M. Núñez Seixas (Universidade de Santiago de Compostela. Servizo de Publicacións e Intercambio Científico, 1994), pp. 505–37 (pp. 529, 533).

⁸ Housden, *On Their Own Behalf*, p. 155; *Compte-rendu de la première conférence des Groupes nationaux organisés des Etats Européens en 1925 à Genève. Sitzungsbericht der ersten Konferenz der organisierten nationalen Gruppen in den Staaten Europas im Jahre 1925 zu Genf* (Als Handschrift gedruckt, 1925), p. 79.

⁹ *Sitzungsbericht des Kongresses der organisierten nationalen Gruppen in den Staaten Europas. Genf, 29. -31. August 1931* (Wien, Leipzig: Braumüller, 1932), pp. 74–94.

¹⁰ *Europäischer Nationalitätenkongress, Protokoll 1931*, p. 153.

¹¹ ‘Autonomie culturelle comme solution du probleme des minorites’. Note de M. Krabbe, 18 Novembre 1931, League of Nations Archive, R.2175-4-32835. I thank Marina Germane for sharing a copy of the document.

and cultural development. In Estonia, many relevant questions for the minorities had been easily solvable via legal provisions within the framework of the local governments. In addition to the financial burden that setting up a separate institutional framework with cultural autonomy would cause, these legal provisions were among the reasons why Russians and Swedes did not establish their cultural autonomies. Krabbe pointed to other possible solutions, namely the provisions in Latvia which had established a legal basis for the minorities to administer their schools. However, David Smith and John Hiden have argued that the implicit conclusion of Krabbe's memorandum was supporting gradual assimilation of minorities according to the Western model of states.¹²

Jan Skala: cultural autonomy as a veiled political programme of Germans

Nevertheless, despite endorsing cultural autonomy by the European Nationalities Congress, there were varied voices about the model among the national minorities in Europe. Critique about the non-territorial autonomy model and the materialised experiment in Estonia was expressed by Jan Skala.¹³ Skala was a Catholic Sorb, born in Nebelschütz.¹⁴ He was the editor of the journal *Kulturwehr* (in 1925 it was published under the title *Kulturwille*)¹⁵, the organ of the Association of the National Minorities in Germany (*Verband der Nationalen Minderheiten Deutschlands*). The association was largely dominated by Poles.

For a brief time, Skala was also more closely involved in the work of the European Nationalities Congress as he participated in the first meeting in 1925 in Geneva.¹⁶ Other Sorbian delegates participated in the work of the congress also in later years, until 1927 as J. Cyž, E. Herrmann, J. Lorenz attended the meetings. It was in 1927 when Congress experienced one of the first major crisis. Namely, the Association of National Minorities in Germany (including the Sorbs) decided to leave the congress. One of the impetuses was the ongoing question of accepting the Frisian minority to the European Nationalities Congress. The issue was complicated and evolved around the issue of who forms a minority and who are the Frisians since many activists (including Germans) considered the Frisians members of the German nation like the Bavarians and Swabs. The European nationalities Congress decided not to include the Frisians which initiated a protest by the Association. After the Association of National of National Minorities in Germany had left, Ammende tried to stay in touch with the organisation and hoped that the groups left would participate again in the future. These attempts of reconciliation, however, were countered by Jan Skala.¹⁷

¹² Krabbe's memorandum has been summarised in Smith and Hiden, pp. 83–84; Housden, *On Their Own Behalf*, pp. 247–49.

¹³ In several studies, Skala is incorrectly considered a Pole.

¹⁴ For (the only) biography about Skala see: Peter Jan Joachim Kroh, *Nationalistische Macht und nationale Minderheit. Jan Skala (1889–1945): Ein Sorbe in Deutschland*. (Berlin/Leipzig: Kai Homilius, 2009).

¹⁵ On the journal see e.g. Walter Koschmal, 'Jenseits der ‚Heimat‘ zu Hause: zu sorbischer Transnationalität', *LĚTOPIS. Zeitschrift für sorbische Sprache, Geschichte und Kultur. Časopis za rěč, stawizny a kulturu Łužiskich Serbow*, 2, 2015, 51–60.

¹⁶ *Europäischer Nationalitätenkongress, Protokoll 1925*, p. 10; for his own account about the meeting see Jan Skala, 'Die Genfer Tagung der nationalen Minderheiten Europas', *Kulturwille*, 8, 1925.

¹⁷ Housden, *On Their Own Behalf*, pp. 240–49; Smith and Hiden, p. 81; John Hiden, *Defender of Minorities: Paul Schieman, 1876–1944* (London: C. Hurst & Co., 2004), pp. 146–47.

In this strife, the broader goals of the association and the congress played an important role. The overall goal of the Polish-dominated Association of National Minorities in Germany was not so much to establish a new system of minority rights, they were rather interested in enforcing the clauses regarding minority protection in the peace treaties.¹⁸

Already in 1925 Jan Skala expressed some critique about some aspects of the Estonian law on cultural autonomy, in particular about the national register (*Nationalkataster*). He argued that “[Nationalkataster] erscheint mir im allgemeinen wie auch besonderen auf die betonte Bevorzugung staatspolitischer, richtiger staatsegoistischer, Interessen seinen Ursprung zurückführen. Alle Nationalstaaten haben die Absicht, ihren Minderheiten sowohl nach innen als auch nach aussen hin so geringsfügig als möglich erscheinen zu lassen. Das ist nationalistischer Egoismus, der keine Berechtigung hat und der vor allem die Tendenz zur *Entnationalisierung* einer Minderheit enthält.”¹⁹ He continued and referred to the question of Sorbs in Germany: the small size of the respective minority was used as a pretext to refuse providing the minorities protection.²⁰ As such the registry-based minority protection model was not necessarily in the interest of the (small and weak) minority.²¹

Skala’s further critique of the law touched upon the dimensions which he considered “mechanical”. More specifically, he criticised §§14, 15, 19, 25 and 27. These paragraphs enabled the Government of the Republic to dissolve the cultural self-government, stated that cultural self-government was automatically dissolved if the number of the respective minority fell under 3.000, declared that there will be no elections to the new cultural council if the number of registered adult citizens was below half of the individuals of this nationality according to the last census data. Furthermore, the mentioned paragraphs stated that the cultural council will not convene if less than half of the registered citizens participated in the elections. These provisions, Skala argued were purely mechanical and did not take the broader setting or the spiritual (*vergeistigt*) dimension into account. As such, these provisions had the potential to make the life of the minorities more complicated and uncertain.²²

In post-World War I Europe, both the public opinion and the statesmen considered the intensified ethnic relationships as a potential threat for a new war.²³ In Skala’s understanding, the Estonian law was part of the broader context of post-World War I Europe which was looking for solutions for the minority question. Minorities in Europe were looking for various partial and interim solutions (*Teillösung*, *Zwischenlösung*) which could eventually lead to more extensive solutions. He counted also the Estonian law from 1925 among these. As such, he even saw it as a valuable example: “... die Kulturautonomie, die Estland seinen Minderheiten gab, einen ausserordentlich beachtenswerten Schritt zu praktischen Lösung des europäischen Minderheitenproblems darstellt.”²⁴ Against this background, Skala considered it in 1925 as one of the most minority-friendly laws in Europe: “Dieses Gesetz stellt die Republik Estland an die Spitze aller europäischen Staaten, die nationale Minderheiten in der Grenze beherbergen, da sie

¹⁸ Smith and Hiden, p. 81; Hiden, p. 146.

¹⁹ Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, *Kulturwille*, 3, 1925, 107–16 (p. 114).

²⁰ Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, p. 114.

²¹ Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, p. 114.

²² Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, pp. 114–15.

²³ Núñez Seixas, p. 518.

²⁴ Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, p. 115.

als erster und bisher einziger Staat den Minderheiten eine weitgehende Selbstverwaltung auf dem wesentlichsten Gebiet des Minoritätenrechts gewährt.“²⁵

Juxtaposing it against minority protection practices in other European states and in particular in Germany, Skala even concluded by recommending it for broader application: “Es wäre zu wünschen, dass alle Minderheitenpolitiker der estländischen Kulturautonomie ihr Interesse in weitgehender Weise zuwenden. Sie ist gewiss nicht das Vollkommene, dass sie aber um vieles besser ist als die Minderheitenpraxis aller übrigen Staaten, kann auch der verrannteste Nationalist nicht leugnen.“²⁶

In 1925, Jan Skala’s ideas about minority protection circulated around international guarantees. He argued that there was a broad and complicated gallery of different legal norms regarding minority rights: individual treaties between states, supplementary agreements to the peace treaties and laws and regulations within the states. These norms, however – be they laws or constitutional provisions (he explicitly referred to the article 133 of the Weimar constitution) – can be nowhere enforced (*erzungen*) by the minority itself. In this context, Skala argued, an international system was needed.²⁷

An important dimension in Skala’s ideas was the critique of how Weimar Germany was treating minorities within the state borders. While Gustav Stresemann had endorsed cultural autonomy for all minorities in Europe in January 1925,²⁸ and German minorities in Europe were so prominently advocating it within the European Nationalities Congress, the Sorb applications to be recognised as national minorities in Germany in the 1920s were rejected by the government. Thus, the Sorbs were unable to use the minority protection provisions of the constitution and had to use general constitutional civil freedoms such as the right to form associations, to establish their own organisations.²⁹

The *Kulturwille* was initially positively minded about creating a European organisation focusing on minority protection. It saw Camillo Morocutti’s proposal for a pan-European organisation – a similar idea to Ammende’s European Nationalities Congress – to defend minorities in positive tones and argued that such an organisation will eventually emerge because of the “elementary need”. Skala was likely the author of this piece since he was the editor of the journal.³⁰

In October 1925, the *Kulturwille* welcomed the European Nationalities Congress as the first attempt alike in history. However, already at that point it expressed some scepticism and was concerned that it might turn into an irredentist organisation. Furthermore, the journal criticised that cultural autonomy was seen by Congress as “allein mögliche praktische Lösung” for all minorities. The journal argued that it can hardly be considered suitable for *all* minorities and hinted at other possible models (such as the Danish) which could have been more suitable in certain contexts. Again, it is likely that Skala wrote the piece as he was the editor.³¹

²⁵ Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, p. 108.

²⁶ Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, p. 116.

²⁷ Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, p. 108.

²⁸ Smith and Hiden, p. 73.

²⁹ Todd Foy and Carmen Thiele, ‘The Legal Status of the Sorbian Minority in the Federal Republic of Germany’, *International Journal on Minority and Group Rights*, 4.1 (1996), 41–77 (pp. 48–49).

³⁰ ‘Bücherbesprechungen. Camillo Morocutti: Europa und die völkischen Minderheiten’, *Kulturwille*, Heft 3, 1925, 138–41.

³¹ ‘Zur Genfer Tagung der nationalen Minderheiten Europas’, *Kulturwille*, Heft 7, 1925, 275–77.

Gradually, however, Skala became one of the most vocal critics of the European Nationalities Congress from within the ethnic minorities camp. In particular, in 1927 Skala criticised the European Nationalities Congress by arguing that German minorities were using the minority movement to advance the interests of the German state. These attacks were countered by Paul Schiemann, a German from Latvia, one of the most active members of the Congress³²

Despite his earlier sympathy, in 1926, Skala eagerly criticised the territorial and non-territorial cultural autonomy models. One of the starting points of Skala's critique was the argument that the propagators of cultural autonomy had no succinct theoretical definition of the nature (*Wesen*) of the model. Skala argued that the propagators saw it not from the epistemological perspective but in empirical terms. In empirical terms, however, the historical experience had been only church autonomy in the educational sphere but this was a *privilege* given to the church by the state. His argumentation had the implicit idea that this partially pre-modern privilege-based system was not compatible with the modern state.³³

Skala's main critical points touched upon the core of non-territorial autonomy, namely who is who, how to determine the members of the minority group. Skala identified three main criteria: language, descent and the free will of an individual. Like many theoreticians of non-territorial autonomy, Skala considered the free will of an individual a crucial component of determining ethnic belonging. However, at the same time, the questions related to the free will were the ones that made determining ethnic belonging extremely complicated. Skala was not in favour of leaving free will aside entirely but argued that the will of an individual can never be entirely free and was always to a certain extent restrained or influenced by external factors. Language and ancestry can be potentially ignored in case the free will was coerced by someone or influenced by some attractions. He argued that all three were important but all external influences on the individual decision should be excluded. This included threats or even terrorist attacks (sic!), counter-propaganda, controlling belonging to the minority, material advantages, social or economic benefits or denial of the actual national belonging – all these both from private or state actors.³⁴

The questions regarding the registry were for Skala closely connected with the issues of defining the essence of cultural autonomy. Since there was no clear universal answer on how to determine who belonged to the minority group – in practical cases like in Estonia this was decided case-by-case – also the very nature of cultural autonomy cannot be defined because it was not clear what was the respective minority.³⁵

In 1926, Skala again focused on the Estonian law and its proposed universalisation by the European Nationalities Congress. Although Skala had turned by 1926 more critical about the law, he did not discard it entirely as he emphasized that it was not a ready-made solution but rather an attempt in defending minorities. Skala added that it was too early to give a final assessment about the usefulness and broader applicability. He also referred to the German minority in Estonia and the Estonian majority who both believed that the law needed some adjustments in the future.³⁶ This remark is important since the authors of the law indeed considered it as a framework or provisional law (*Rahmengesetz*). They

³² see e.g. Hiden, pp. 144–47; Sabine Bamberger-Stemmann, *Der Europäische Nationalitätenkongress 1925–1938: Nationale Minderheiten zwischen Lobbyistentum und Grossmachtinteressen* (Marburg: Verlag Herder-Institut, 2001), pp. 175–77; 233–34.

³³ Jan Skala-Łužičan, 'Kulturautonomie', *Kulturwehr*, Heft 2 (Feb. 1926), 1926, 49–57 (pp. 49–50).

³⁴ Skala-Łužičan, pp. 50–51.

³⁵ Skala-Łužičan, p. 51.

³⁶ Skala-Łužičan, p. 55.

argued that implementing this kind of autonomy was the first attempt in the world and since there was no previous experience based on which to draft the law and adjust all the practical details, it was important to revise the law according to the experience gained in implementing it.³⁷

One of the biggest concerns for Skala regarding cultural autonomy was its ultimate goal. In 1925, when Skala introduced the Estonian law to the readership of his journal, he argued that the ethnic minorities in Europe were essentially cultural communities (*Kulturgemeinschaften*) trying to stay in contact with their kin-state. However, the German minority in Czechoslovakia, Skala argued, was essentially a political community as they had irredentist ideas and plans and considered uniting with Germany and creating a Greater Germany (*Grossdeutschland*).³⁸

In 1926 Skala further elaborated on his understanding of the irredentist dimension of cultural autonomy. He argued that there were two versions of cultural autonomy – either based on territorial, or on personality principle. The supporters of the first, however, Skala argued, did not see cultural autonomy as a minority-political goal but as the first step “on the way to the self-determination”.³⁹ Under this, he meant political self-determination or secession from the respective state. However, for the supporters of cultural autonomy based on the personality principle, the ultimate goal was no different. Skala argued that although the minorities initially demanded autonomy to defend themselves against denationalization they gradually wanted to exercise “self-determination” (*Selbstbestimmungsrecht*) which, as mentioned earlier, meant for Skala territorial political self-determination or secession.⁴⁰

This is why he asserted that the principle of self-determination was already realised in the new international law created by the peace treaties after the First World War. Applying this principle again by the minorities, Skala asserted, was “changing the status quo of the international law” (*Aufhebung des völkerrechtlichen „status quo“*). He wrote that it was: „Angriff auf die territorialen Grenzen der heutigen Staaten, mit dem Ziel, die noch vorhandenen deutschen Minderheiten, sie es durch das Aufgehen in einem deutschen Staat, sei es durch Neubildung von Staaten, zu Mehrheiten zu machen.“⁴¹ What may have likely made Skala to conclude that the aim of the Congress was revisionist was the founding principles. Namely, the founding principles emphasised the demand for territorial and personal autonomy but also “in einzelnen Fragen sogar noch einer Revision der Grenzen durch den Völkerbund”.⁴² As seen from the quote, however, only in individual cases and via the League of Nations.

These hidden goals had in Skala’s understanding turned the minority question into a crisis for which the European Nationalities Congress had only given further breeding ground. In this regard, his more specific critique was aimed at the 2nd resolution of the first congress which we mentioned earlier. Skala stated that the failure to include the „duty for absolute civic loyalty“ (*der Pflicht zur absoluten staatsbürgerlichen Loyalität*) as the precondition for any self-government of the minorities had only given further food for demands for political self-determination and separatist tendencies.⁴³ Indeed, the

³⁷ see e.g. the explanatory note to the law in Kaido Laurits, *Saksa Kulturomavalitsus Eesti Vabariigiis 1925-1940: monograafia ja allikad*, Ad fontes, 16 (Tallinn: Rahvusarhiiv, 2008), pp. 271–80.

³⁸ Jan Skala, ‘Die Kulturautonomie Der Nationalen Minderheiten Estlands’, p. 108.

³⁹ Skala-Łužičan, p. 58.

⁴⁰ Skala-Łužičan, p. 53.

⁴¹ Skala-Łužičan, p. 57.

⁴² Gründe, Richtlinien und Programm für eine Tagung der Vertreter aller nationalen Minderheiten in Europa [1925], ERA.1107.1.12.

⁴³ Skala-Łužičan, p. 57.

resolution did not include such a precondition for autonomy. Nevertheless, it would be unjust to accuse Congress of opening the doors for disloyal minority activism. The first meeting addressed the question and concluded that minorities are loyally willing to cooperate within the states.⁴⁴ Furthermore, the very resolution did include, although in a much milder wording, a loyalty clause emphasizing “loyale Zusammenarbeit aller, der Minderheiten und Mehrheiten”.⁴⁵ The internal regulations of the Congress were much stricter than depicted by Skala. Only general issues relevant to all minorities were allowed to be discussed. Furthermore, participants had to declare loyalty to their respective countries. Criticising one or another government was not possible during the meetings.⁴⁶

Camillo Morocutti responds: countering the Versailles system with self-determination, self-government and self-responsibility

This attack against cultural autonomy and the European Nationalities Congress in 1926 was opposed by Camillo Morocutti. Morocutti was a German from Yugoslavia and focused in his activity in particular on the German minority in Slovenia.⁴⁷ Morocutti was also active in the European Nationalities Congress as he participated in the meetings in 1925 and in 1927 in Geneva.

In his rather emotional response, Morocutti criticised Skala’s positive assessment of the Versailles treaties. Morocutti argued that the Versailles and St. Germain treaties were not based on a clear legal basis but written in a “war psychosis”, in the “heat of victory” (*Affekt des Sieges*), and were essentially the peak of nationalism and militarism which had set the ground for a second world war.⁴⁸ In order to maintain peace in Europe, Morocutti argued, these two treaties needed to be “organically“ (but not violently) revised since no status quo was eternal. In more specific terms, Morocutti argued that the treaties needed to be revised “im Sinne allseitiger Kriegsabrüstung (man denke an die polnischen, südslawischen und tschechischen Armeen!), im Sinne übernationaler und internationaler Verständigung, freihändlerischer Zusammenarbeit und Wirtschaftsergänzung, im Geiste des Europäismus, im Geiste ehrlicher und anständiger Friedwilligkeit.”⁴⁹

Morocutti’s interpretation of self-determination differed from Skala’s in the sense that it did not necessarily mean for him broader political or separatist goals. Derived from this, his definition of cultural autonomy consisted of three components: „the right for national and cultural self-determination, the right for national and cultural self-government (personal or territorial) with the highest possible claim and emphasis on national and cultural self-responsibility of a minority and its leaders.”⁵⁰ Adding self-responsibility to the definition, as we will see later, was important since it supposedly helped to avoid opportunistic political quarrelling what Skala considered a potential threat.

It is important to emphasise that in his text, Skala had juxtaposed self-determination with (the right for) co-determination (*Mitbestimmungsrecht*). Skala argued that the latter was the only suitable minority-

⁴⁴ *Europäischer Nationalitätenkongress, Protokoll 1925*, p. 74.

⁴⁵ *Europäischer Nationalitätenkongress, Protokoll 1925*, p. 79.

⁴⁶ Smith, Germane, and Housden, p. 6.

⁴⁷ For Morocutti’s more extensive account on the question of minorities see: Camillo Morocutti, *Europa und die völkischen Minderheiten*, Tat-Flugschriften, 39, 1.-3. Tsd.. (Jena: Diederichs, 1925).

⁴⁸ Camillo Morocutti, ‘Kulturautonomie’, *Kulturwehr*, Heft 4 / April 1926, 1926, 148–62 (pp. 148–49).

⁴⁹ Morocutti, ‘Kulturautonomie’, p. 149.

⁵⁰ Morocutti, ‘Kulturautonomie’, p. 154.

political goal although he did not further elaborate on it.⁵¹ In Skala's interpretation, it appears to be a model where the minority was more included in the political decision-making and had certain tools to place complaints in case their interests were not considered. A clearer picture of co-determination will open later in this paper as Morocutti's critique will be analysed. Interwar *völkisch* legal thinker Theodor Veiter equated the right for co-determination with the national curiae of the minorities in public representative bodies. These curiae should be consulted with when questions related to the respective minority are discussed. Furthermore, in Veiter's interpretation, co-determination could have also included the right of veto, participation in filling public positions (via elections or appointment) and the right to make law proposals (*Rogorecht*). In Veiter's interpretation, co-determination was a weaker form of minority protection than cultural autonomy based on the personality principle.⁵²

Morocutti stated that cultural autonomy was the best guarantee against irredentism. Paraphrasing Coudenhove-Kalergi, Morocutti argued that it was the best measure to render the existing nationalist and military borders of hate (*Hassgrenzen*) invisible.⁵³ He argued that cultural autonomy was a pacifying measure to create a more organic relationship embedded in international law.⁵⁴ Since the treaties were, Morocutti argued, compiled to satisfy militarist and nationalist vanity and were not in accordance with the interests of peoples of Europe, cultural autonomy was also a tool to „Liquidierung unorganischer und unrechtlicher-völkischer Beziehungen, eine Liquidierung des Versailler Völkerrechts“.⁵⁵ In this argument, he constantly referred to the „30 million“ minorities created with these treaties.

Morocutti then moved on and listed possible objections to national-cultural self-determination and self-government and stated his own counter-arguments.

Firstly, on national grounds, Morocutti argued that minorities could argue that cultural autonomy was not beneficial since it created a clearly defined minority, separate from the majority. Minorities could argue that actually unclear boundaries (*unklare nationale Nebeneinander und Durcheinander*) could give more opportunities to advance the goals of the minority. Namely, it could enable to do some promotional work to broaden the acquired rights and to awake the national belonging of these individuals, who are not entirely aware of their belonging. It would also enable to secretly organise national awaking and to revolutionise the minority. Morocutti argued that the right for national-cultural self-determination and self-government excluded these options. He reversed this argument and wrote that these minorities who wanted to preserve their acquired rights, focused on cultural autonomy, those who wanted to broaden the rights were interested in co-determination and co-administration (*Mitbestimmung und Mitverwaltung*). As such, demands for cultural autonomy were foremost cultural in their nature whereas co-determination and co-administration political.⁵⁶

Secondly, Morocutti argued that cultural autonomy could also be rejected on political grounds. Politically, however, co-determination and co-administration can be more complicated since the minority can continuously burden the majority by being dissatisfied and can further complicate the relationship by quarrelling. Furthermore, since a system of co-determination enabled passing complaints

⁵¹ Skala-Łužičan, p. 57.

⁵² Theodor Veiter, *Nationale Autonomie: Rechtstheorie und Verwirklichung im positiven Recht* (Wien ; Leipzig: Universitäts-Verlag Wilhelm Braumüller, 1938), p. 80. I thank Oskar Mulej for making me aware of this work.

⁵³ Morocutti, 'Kulturautonomie', p. 150.

⁵⁴ Morocutti, 'Kulturautonomie', p. 153.

⁵⁵ Morocutti, 'Kulturautonomie', p. 153.

⁵⁶ Morocutti, 'Kulturautonomie', pp. 155–56.

by the minority, these could be utilised politically by the majority to justify the worse treatment of the minorities. Besides, these complaints could be a tool for the majority to play one minority against the other. Morocutti argued that such conflicts are avoided in cultural autonomy since self-determination and self-government demanded a high degree of self-responsibility from the minority community and its leaders.⁵⁷

Finally, Morocutti argued that self-determination and self-government can be rejected because it would reduce the economic and business opportunities of the members of the minority community. Morocutti rejected this argument by saying that for the state, a smaller „self-confident, self-determined, self-governing and self-responsible“ trustworthy minority is more valuable than a big but opportunistic minority which continuously fluctuates between the majority and minority for economic reasons. He added the example of his native Slovenia and argued that it is likely that if there was cultural autonomy for Germans, many opportunistic businessmen would not enrol in the registry but he would still prefer clearly defined and trustworthy small rather than big and opportunistic minority community.⁵⁸

The debate carried on as Skala published a response to Morocutti's answer in the next issue of *Kulturwehr*. In conclusion, according to Skala's understanding of cultural autonomy, it was a veiled programme of the German minority. The actual goal, Skala argued, was a step-by-step movement towards political self-determination and ultimately revising the existing borders of the states. As such, Skala believed, cultural autonomy was not an agenda of minorities but a purely political agenda.

The question arises: what was Skala's own positive programme for minority protection? In these critical articles he did not offer a full-fledged programme. Skala believed that cultural autonomy would sharply separate individuals and ethnic groups from each other. Instead, he expressed his sympathy for a system where ethnic groups cooperate and which would enable a synthesis of different culture:

„Nicht Auseinander durch Kulturautonomie oder Durcheinander durch national-kulturelle Selbstbestimmung, sondern ein vom Humanismus geleitetes Nebeneinander, nicht deskonstruktives Sterilisieren der Kulturen, sondern synthetisches Befruchten durch gemeinsame kulturpolitische Tätigkeit, nicht politisches Negieren bestehender Tatsachen, sondern politische Arbeit auf Grund dieser Tatsachen: das soll unser Ausgangspunkt sein. Non navigare, sed vivere necesse est!“⁵⁹

Further elements of Skala's understanding of minority protection mechanisms included the above-mentioned co-determination, implementing existing treaties and guaranteeing international protection. A possible example Skala often referred to was the minority regulation in Denmark. Namely, in Denmark, minorities had self-government in certain affairs such as schools and church and this was combined with aid from the state to the minority. Skala argued that this system without expensive autonomy organs could be more useful for smaller and poorer minorities (and also Sorbs which he described as *Völkerreste*).⁶⁰ As such, Skala's ideas are not too far from Krabbe's remarks which stressed

⁵⁷ Morocutti, 'Kulturautonomie', p. 156.

⁵⁸ Morocutti, 'Kulturautonomie', pp. 156–57.

⁵⁹ Jan Skala, "„Art und Ausdruckweise obiger Kritik...“ [Skala's response to Morocutti's critique]', *Kulturwehr*, Heft 4 / April 1926, 1926, 157–62 (p. 162).

⁶⁰ Skala-Łužičan, p. 55; 'Zur Genfer Tagung der nationalen Minderheiten Europas', p. 277; On Danish system see e.g. Julius Bogensee, 'Das Deutschtum in Nordschleswig', *Kulturwille*, 8, 1925, 352–58; for a more programmatic approach see: Jan Skala, 'Das Selbstbestimmungsrecht und die Loyalität der Minderheiten', *Die Friedens-Warte*, 28.7 (1928), 205–7.

that the Latvian (and also Danish) approach of schooling autonomy could be more suitable than the Estonian autonomy model.

Congress and non-territorial autonomy

As seen above, Skala himself initially assessed the cultural autonomy model positively and stressed some of the problematic aspects of the it. One can ask if his critique was entirely honest and benevolent, or if he was perhaps exercising opportunistic critique himself – something that he accused the Congress and the German minority of. Ammende described Skala as “a master of poisoning streams”, who attempted “a systematic incitement between nations” and was driven by a “pathological hatred against Germandom”.⁶¹ It is likely that Skala’s critical approach to cultural autonomy and the European Nationalities Congress derived not so much from the fundamental opposition to the model but how he perceived its treatment within the Congress. European Nationalities Congress was one of the most important minority organisations in interwar Europe and although it did not claim that cultural autonomy was the only solution, it nevertheless had a very strong focus on it. Skala himself expected that this organisation encompassing European minorities should have a broader programmatic focus and take other possible forms of minority protection more seriously.

Congress’ strong sympathy for non-territorial autonomy indeed raises some of the questions that Skala and Krabbe had raised. In 1931, a special session was dedicated to the Estonian experience – the exemplary solution to the minorities question in the eyes of the Congress. In Estonia, two minorities had used the opportunities given by the law: Germans and Jews established their respective autonomies. However, only representatives of Estonia’s Germans and Russians participated in the meeting and not the Jews whose experience in practising autonomy should have been very valuable for the Congress which proposed its universalisation. Estonia’s Jews had participated in the congress only once, in 1927.⁶² The main reason why they did not participate was their very limited financial resources – that is why they had to reject the invitation by Motzkin in 1926.⁶³ Their experience, however, could have raised many relevant (but also potentially risky) questions to take into account in the broader application of cultural autonomy: how suitable was it for small minorities whose financial resources were very limited (Jewish autonomy had constant problems with limited funds), how to deal with a linguistically diverse minority within the autonomy structures (Estonian Jewish minority constantly debated the languages of instruction at schools⁶⁴), and the question of unwillingness to learn at minority schools (in the mid-1930s, only 55% of Jewish children in Estonia attended Jewish schools⁶⁵). Also, the *Lagebericht* about Estonia’s Jews in the collection edited by Ammende hardly observed their experience critically. Besides praising that Estonia guaranteed Jewish autonomy in the *Lagebericht*, only some problematic aspects

⁶¹ Housden, *On Their Own Behalf*, p. 240.

⁶² *Sitzungsbericht des Kongresses der organisierten nationalen Gruppen in den Staaten Europas. Genf, 22. bis 24. August 1927* (Wien, Leipzig: Braumüller, 1928), p. 6.

⁶³ Juudi kultuurivalitsuse protokoll nr 4., 20. August 1926, Estonian National Archives (ERA), 40.1.6885, p. 47.

⁶⁴ On language issues see e.g. Anu Põldsam, ‘Juudi keeletulist Eestis’, in *Eesti Evangeelne Luterlik Kirik 100. Kirik, teoloogia, mälestused*, ed. by Atko Rimmel and Priit Rohtmets, EELK Usuteaduse Instituudi Toimetised, 2017, XXVI, 221–37.

⁶⁵ In debates about the law, the Baltic Germans argued for Zwangskataster as it would help to avoid erosion from the minority community; on school statistics see: Helker Pflug, ‘Aspekte jüdischen Lebens in Estland bis 1940’, in *Die Vergessenen Juden in den baltischen Staaten: ein Symposium vom 4. bis 7. Juli 1997 in Hannover*, ed. by Ansgar Koschel and Helker Pflug (Verlag Wissenschaft und Politik, 1998), pp. 51–60 (p. 56).

such as the need to expand the powers of autonomy to include social welfare, a small representation of Jews in state and local government institutions and struggles with language of instruction were mentioned but in passing.⁶⁶

Arguably, addressing these challenges that arose could have been of great value since Congress aimed to encompass more minorities. It would have helped to adjust their programme and strategy to be more successful in their communication with the League of Nations. It perhaps not entirely wrong to say that Congress had a somewhat idealistic understanding of non-territorial autonomy and in a sense advocated a model law that Ammende himself had created in Estonia. Or at least that the Congress advocated a minority protection model that was the most suitable for two main groups of the Congress, namely the *Auslanddeutschen* and the Jews⁶⁷ and paid very little attention to other possible solutions.

On the other hand, balancing between the interests of numerous different minority communities and preserving a sense of unity to act as one organisation and influence the League of Nations was a Gordian task. Some of the core principles of the Congress indeed reflected these considerations but at the same time made more in-depth discussions complicated. For instance, issues relevant to specific minorities were not foreseen not be addressed in the meetings, the Congress had to have some kind of unified position and not a be “Spezialkongress für die juridischen Fragen der Minderheitenentwicklung”.⁶⁸

What did Jan Skala’s attacks against the cultural autonomy model and the European Nationalities Congress mean for the further development of the Congress? As a result of these attacks, in particular in 1927, Ammende changed his approach to cultural autonomy. From thereon, he emphasized that although it worked well in Estonia, it was not the only possible solution as there were other important approaches elsewhere.⁶⁹ Furthermore, Skala’s attacks evoked the interest of the *Auswärtiges Amt* towards the organisation regarding its possible usefulness for German foreign policy. It was in 1927 when the *Auswärtiges Amt* started to fund Ammende’s office in Vienna and the organ of the Congress, the journal *Nation und Staat*. From thereon, the Congress gradually became dependent upon the German funds.⁷⁰

Conclusion

This paper has shown how the cultural autonomy model, the Estonian experiment with it and the European Nationalities Congress advocacy of its universal application were criticised. Strikingly, Jan Skala’s critique about the Congress and its ultimate aims resembles a lot how it has been treated in historiography. Looking retrospectively through the years when the Congress was dominated by nationalist and Nazi Germans, studies have treated the Congress as a mere tool for revisionism and

⁶⁶ *Die Nationalitäten in den Staaten Europas. Sammlung von Lageberichten. Hrsg. im Auftr. d. Europ. Nationalitäten-Kongresses unter Red. v. Ewald Ammende.*, ed. by Ewald Ammende (Wien, Leipzig: Braumüller in Komm, 1931), pp. 21–28.

⁶⁷ Smith, Germane, and Housden, pp. 6–7.

⁶⁸ Gründe, Richtlinien und Programm für eine Tagung der Vertreter aller nationalen Minderheiten in Europa [1925], ERA.1107.1.12, p. 3.

⁶⁹ Housden, *On Their Own Behalf*, p. 240.

⁷⁰ Hiden, p. 146; Sabine Bamberger-Stemmann, *Der Europäische Nationalitätenkongress 1925 bis 1938. Nationale Minderheiten zwischen Lobbytätigkeit und Großmachtinteressen*, Materialien und Studien zur Ostmitteleuropa-Forschung 7 (Marburg: Herder-Verlag, 2000), pp. 236–37.

nationalism.⁷¹ Recent studies, however, have offered a different look and showed how in the early years it was a “genuinely multiethnic coalition” encompassing 20 minorities from 15 different countries. Furthermore, until the Congress became dominated by the nationalist Sudeten Germans, the most influential figures in the Congress were not advocating German superiority nor pan-Germanism. Instead, activists such as Paul Schiemann from Latvia advocated anational state and were vocal opponents to Nazism.⁷²

Analysing some of the core programmatic elements of the Congress, namely the cultural autonomy model demonstrates the challenges that building an interwar minorities movement was faced with. European Nationalities Congress encompassed a diverse gallery of different minorities, balanced between their interests, had to counter fierce attacks and at the same time act as one organisation to influence the policies of the League of Nation. From these interwar debates over (no-territorial) cultural autonomy more broadly and the experience of experimenting with the model in Estonia more specifically, several questions and critical points emerge that can also have contemporary relevance. Furthermore, a closer look into these debates helps to give a more nuanced – and indeed, also including critical voices that have so far found less scholarly attention – picture of the reception of the cultural autonomy model during the interwar years among different minority communities.

⁷¹ See e.g. Bamberger-Stemmann, *Der Europäische Nationalitätenkongress 1925-1938*.

⁷² Smith, Germane, and Housden.

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