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Minorities as citizens: the legal advocacy of language rights by the Hungarian minority in Romania

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The present paper investigates the assertion of language rights through legal mobilization by the Hungarian minority in Romania, thus examining this emergent kind of mobilization pursued by ethnic minorities to claim their rights; often rights recognized by law, but not enforced in practice, in order to reclaim agency as an analytical focus in the study of minority rights. Although it has been recognized that European integration shaped minority political action in fundamental ways (Csergő and Regelmann 2017), examining legal activism in the realm of minority politics in Central Eastern Europe (CEE) has remained a real blind spot in the literature. In contrast to the flourishing scholarship in the US, research looking at litigation of minority rights in Europe has been scarce and mostly focused on Western and South-Western Europe, leading to a “glaring gap in social science and legal scholarship” (Anagnostou 2014: 22). Yet, such an analysis could shed some precious light on the agency of minorities in contrast to the dominant approach of the existing nationalism scholarship, which focuses on how structural conditions constrain minorities in the region (Agarin and Cordell 2016). According to the emerging consensus in this literature, since the CEE countries joined the EU, a dual movement took place, characterized by the adoption of formal norms that strengthen liberal democracy, including minority rights, and the substantive backsliding helped by the lack of implementation. Positive legal changes were not followed by adequate implementation, which had the negative effect of concealing enduring ‘deeper political or societal trends’ that perpetuate historically ingrained patterns of discrimination, thus delegitimising the dissenting voices that pointed out such injustices (Sasse 2008).

Such discrepancy between laws and implementation characterized the evolving minority protection regime in Romania, where substantial legal progress was achieved, particularly related to minority language use and education in minority language, during Romania’s EU integration process by the main party representing Hungarians, the Democratic Alliance of Hungarians in Romania (Romániai Magyar Demokrata Szövetség in Hungarian, hereinafter RMDSZ) through political bargaining with mainstream Romanian parties under the pressure of EU conditionality. However, the Romanian elite’s vision of a culturally more homogeneous political community has prevented the adoption of institutional guarantees for power sharing between the minority and majority that could have created the conditions for the better enforcement of minority rights. This has produced the minority governance regime coined “unequal accommodation” by Kiss et al. (2018), in which the implementation of minority rights is subject to constant bargaining between the minority and majority political elites, and is characterized by informality and patronage, which leads to deficient enforcement of the rights granted by law. This arrangement rests on unequal power-relations between the minority and the majority, significantly limiting the agency of the former, where minority elites lack the means to effectively overcome the obstacles kept in place by majority elites blocking the enforcement of minority rights.

The incongruity between the rights on paper and their execution in practice provokes inter-ethnic rivalries for the visibility of language and culture, which tend to play out at the local level. The public use of Hungarian language is largely uninhibited in localities where

Hungarians constitute the local majority.¹ However, cities where both communities live in substantial numbers have seen ongoing inter-ethnic competitions for the symbolic occupation of public spaces that are the focus of this study. The geographical aspect is fundamental to these ethnic contests, where a space can be symbolically occupied through cultural and linguistic domination. That geographical distribution is inherent to the language policies of modern nation states, in which the exclusive ownership of sovereignty is marked by the dominance of national language in physical spaces, was captured by the notion of “linguistic territoriality” introduced by Zsuzsa Csergő (2007). Progressive language laws put in place during Romania’s EU accession negotiations provide for the public use of Hungarian language where Hungarians constitute at least 20% of the local population that sustain the illusion of minority language rights. In contrast, the logic of “linguistic territoriality” dictates the rules of the institutionalization of the same rights in practice “in ways which serve the continued cultural ownership of [the] territory” by the majority nation (Csergő 2007: 11). Since within this framework linguistic rights are widely perceived as territorial markers of sovereignty, the linguistic territoriality conceptions of the minority and the majority will necessarily clash with each other as they are mutually exclusive. This defines the unwritten rules of the symbolic occupation of spaces, according to which Hungarian language is not allowed in social spaces occupied by Romanian language, beyond which it must be negotiated by local ethnic elites in which public domains Hungarian may be permitted.² Hungarian is allowed primarily in the ethnic institutional framework of the minority, yet outside of it bilingualism is generally considered an anomaly. These rules seem to govern the behavior of public authorities when they obstruct the use of Hungarian language in interethnic public spaces, thus violating the relevant legal provisions. However, the same rules appear to guide the actions of the minority party when it concentrates its efforts on ethnic institution building, instead of pursuing bilingualism in local government bodies, interethnic public institutions and spaces. In order to compensate for the absence of Hungarian language in interethnic public domains, RMDSZ has fundamentally cultivated the development of Hungarian-only institutions that constitute a parallel Hungarian society, such as schools, churches, and cultural organizations that fell outside of Romanian spheres of interest, thereby ensuring the “unmarked” status of Hungarian language in these fora (Feischmidt and Brubaker 2006: 211).

The limits of this strategy were soon revealed after Romania’s EU accession, despite RMDSZ continuing to share power at the center and the local level. After Romania became an EU member, external pressure for the protection of minorities was largely removed, causing a setback for minority rights. By using the legal opportunities created by Romania’s EU integration process, minority rights activists started demanding bilingualism in the local public sphere after Romania joined the EU in 2007, by challenging the repression of Hungarian language through legal mobilization campaigns. Yet by doing so, they also defied the very logic of the dominant order of “linguistic territoriality”, which fosters the existence of parallel, physically segregated, monolingual public spheres. In contrast to RMDSZ’s building of monoethnic institutions driven by the logic of ethnonationalism, they promoted bilingualism in public institutions, seeking integration into the local polity based on the equality of citizenship rights. In order to capture this internal contest within the minority community between different modes of representation, the agency of the minority needs to be scrutinized – i.e. the mode of asserting rights in the face of the restraining order, and understanding who in the community is entitled to claim these rights (Blechman, Chari & Hasan 2005: 88-89) – which may be done through adopting Rancière’s concept of political dissensus as a theoretical tool. Davidson &

¹ Hungarians in Romania constitute the most numerous minority (1.2 million people, making up 6.1% of the population). Around half of the community lives in the counties of Harghita, Covasna, and Mureș, where they form local majorities.

² Interview with Enikő Szigeti, Director of CEMO, Budapest, 28 November 2019.

Iveson (2004:4) drew attention to the inherently spatial nature of how Rancière understands police and politics as for Rancière “everything in politics turns on the distribution of spaces.” By applying Rancière’s theory to the case of the Hungarian minority in Romania, it will be argued here that civil society activists’ legal mobilization initiatives are a manifestation of “politics” in the Rancièreian sense of the word as they challenge the distribution of public spaces along ethnic lines through pushing forward their integrative vision of the same spaces by their legal mobilization campaigns thus “seeking the litigious distribution of places and roles” (Rancière 2003: 201). Rights activists rejected the rule of “the sensible” dictated by “linguistic territoriality” that restricts the use of Hungarian language to monoethnic spaces and pushed instead for bilingualism in inter-ethnic domains. Furthermore, through mounting legal actions, they have contested the dominant rule of minority agency, according to which the public representation of minority language and culture must be negotiated between minority and majority elites as imposed by the regime of “unequal accommodation”. Thus civil activists also challenged the interethnic consensus about who is entitled to speak in the name of the minority. According to the *modus operandi* of “unequal accommodation,” professional politicians are responsible for negotiating in which spaces and how Hungarian culture and language can be represented in public. In contrast, civil society actors challenge this order by reaffirming the right and the responsibility of every minority citizen to claim these rights.

Rancière’s conception of “political dissensus” is helpful for capturing this internal contestation for minority rights’ representation, which critical geography cannot account for. Critical geography offers a useful interpretative frame for the spatial manifestation of ethnic contests, in as much as it views the symbolic occupation of space as a reification of national identity and belonging (Williams & Smith 1983; Leisbet, Connon & Simpson 2018). However, critical geography cannot get us further than showing that contested social spaces are manifestations of competing ethno-nationalist projects subject to unequal power dynamics between ethnic groups (Eröss 2014), without taking note of the differences in actors’ identities and values within the same group or capturing the internal dynamics within ethnic groups. In contrast, the present study seeks to problematize these ingroup differences, reflected by internal divisions within the Hungarian community between civil society actors engaged in legal mobilization driven by the logic of equality, and the political elite pursuing an ethnocultural agenda by seeking consensus with majority actors.

The first part of the article presents the theoretical frame which will be informed by insights from the legal mobilization literature and Rancière’s conception of “political dissensus.” In the second part, this conceptual framework will be applied in a case study on the city of Târgu Mureş. Târgu Mureş was chosen here for empirical investigation as the city represents a microcosm of Hungarian-Romanian relations due to its unique experience of ethnic violence in March 1990 and its ethnic geography, which is quite evenly split between the two ethnic groups, offering a condensed yet representative picture of the many aspects of Hungarian-Romanian conflict. The empirical case study relies on a dozen of interviews conducted with minority politicians, academics and civil society activists, as well as news pieces from Romanian and Hungarian language media from Romania. It will first discuss Hungarians’ uphill battles for the city’s key institutions in political and administrative arenas and the courts, illuminating the paralyzing effects of existing structural constraints. The second part will focus on how CEMO, a local Hungarian NGO managed to find a way to assert minority agency through legal mobilization for the public use of Hungarian language rights, which previously seemed lost in the turf wars over institutions between local minority and majority political elites.

Political dissensus and the police

Most works of nationalism literature on minorities in CEE focus on how the structural constraints of nationalizing states prevent minorities from effective rights assertion, thus offer only a limited view of why minority representatives do not seek legal remedies through the courts or other means more often when their rights are being compromised. The question is important, because it points to the responsibility of minority representatives for claiming their rights. According to Rancière, it is meaningless to look at whether a group has certain rights or does not; rather, what should be examined is the process of the confirmation or enactment of such rights by the subjects that claim them, which he called “dissensus.” (Rancière 2010). For Rancière, “rights are not a kind of absolute,” but are “always litigious, oriented toward staging conflict in the process of verification,” on behalf of those “who have no part” (Blechman, Chari & Hasan 2005: 88). The real content of rights provided by law becomes clear through implementation, which determines the practical usefulness and limits of the rights, but it is a contested process. Consequently, what should be investigated is how minority and majority representatives are pushing the existing limits of the interpretation of minority rights, thus influencing the mode of their implementation. This is the very goal of legal mobilization – i.e., pursuing the implementation of rights by using the law to advance social-change-related goals (Zemans 1983: 700). Beside rights-claiming through litigation in front of a court, it can also imply legal procedures, such as petitioning quasi-judicial, administrative, and governmental authorities with the purpose of asserting rights, which sometimes might lead to court procedures. Importantly, pursuing wider social justice goals is inherent to its meaning. Legal mobilization often goes together with political and social mobilization, thus constituting a part of broader strategies of rights-seeking, which also include the mobilizational discourses and advocacy strategies of civil society and political actors to press for more rights or a better implementation of existing rights. (Anagnostou 2014: 4).

At the same time, scholars who study legal mobilization generally see the strategies of rights advocates and their effects as limited and strongly contingent. In fact, Rosenberg (1991) described litigation as “hollow hope,” while Kagan (2003) characterized it as “inefficient pathology impeding policy responses to basic problems.” Most analysts maintain that the law fundamentally supports existing hierarchies and status quo conventions, even if they also acknowledge that “sometimes law can be mobilized to challenge and even reconstitute the terms of institutional order” (McCann 2006). For instance, litigation efforts seeking the installation of bilingual street name signs mostly failed in Romania, as will be demonstrated in the case study. However, while legal suits have been largely ineffective, quasi-legal actions such as petitioning the anti-discrimination body or local authorities and calling them to account in respect of their responsibilities for enforcing certain rights, together with advocacy campaigns of mobilizing the direct subjects of minority rights, were more successful in other areas. Thus, what minority rights activists have managed to do is raise the rights consciousness of local Hungarians through naming and challenging existing social wrongs and by defining the overall opportunity structure by exploring strategies for a more effective rights assertion. These are the two aspects that have been highlighted by legal mobilization scholars concerning how law matters for the social movements of otherwise marginalized groups (Mc Cann 2008:511).

Legal mobilization activities of rights advocates will be read through Rancière’s conception of “political dissensus”; meaning struggles for equality that challenge the “police,” which Rancière understood as “a certain way of dividing up the sensible” (Rancière 2010: 16). The “police” for Rancière is a consensual way of allocating a proper place and role for different groups in society, where everybody has their allotted place in the political community, and which sustains the illusion of egalitarian presuppositions (Bowman and Stamp 2011). The police works by consensus, which is essentially a “reduction of politics to the police,” which is “the end of politics” (Rancière 2010: 42). By contrast, political dissensus is “the process by

which the ‘part of those without part’ counter all such counts based upon their exclusion [...] politics is the process of disrupting the distribution of parts and roles through a claim about the equality of anyone with everyone” (Tanke 2011: 42-43).

For Rancière, politics is a form of dissensus (in addition to art), which “involves the open-ended set of practices driven by the assumption of equality” (Rancière 2010: 16). Importantly in relation to this study, litigation is central to Rancière’s understanding of politics, as for him “a political community is a litigious community” (Rancière 2010: 40). Politics works by disrupting existing categories of the proper and the sensible through the logic of equality. By contrast, the police reserves politics for professional politicians and government officials while relegating the rest of the community to the private sphere. Political dissensus aims at challenging this status quo by demanding the right to be heard and recognized as a legitimate participant in public affairs.

Read through this theoretical frame, the “unequal accommodation” of the Hungarian minority, which subjects the implementation of minority rights to political bargaining and divides social spaces into two parallel ethnolinguistic worlds, is the manifestation of the police: “a symbolic constitution of the social” which sets the proper and sensible place for the minority and role of minority rights (Rancière 2010: 36). In this social order, political representatives of the minority and the majority negotiate the appropriate and rational means and place for the minority rights granted by law to be carried out in practice. Minority governance through striking political bargains with majority elites is essentially governing through seeking political consensus, which is the primary means of managing the social sphere under the “police” for Rancière (Olivier 2014). Addressing the problems and needs of the minority through such informal deals de-politicizes the rest of the community, excluding them from rights assertion and political participation, which are left to the time of elections when they can cast their votes for the minority party. This social order denies minority citizens the political quality, reserving it for politicians. Furthermore, it is inherent to this arrangement that some minority rights will necessarily be lost in the process, as bargaining always requires compromises.

By contrast, civil society activists perform “political dissensus” when they challenge this status quo based on political bargains and go out of their way to test the waters in terms of judicial and administrative support for a shift in understanding an issue. Civil society activists, by initiating rule of law procedures, have started enacting the rights that are granted by law but are denied by the constraints of the prevailing order, thus been seeking out potential niches through which the enforcement of existing rights could be achieved. This has in some cases closed and in others opened up channels for effective rights assertion. By provoking the political participation of minority citizens who used to have no part in this game, they have inadvertently disturbed the preexisting power balance between incumbent minority and majority elites, thus challenging what were considered sensible and proper ways of asserting minority rights. By adopting the disposition of a citizen rather than of a minority, minority activists have claimed agency previously reserved for professional politicians. Through mounting legal initiatives, they have effectively challenged the separation of ethnic spaces grounded in informal political bargains between minority and majority political elites.

This reading of the situation also paradoxically places the minority party, RMDSZ, in the category of the “police,” similarly to the authorities of the state, as both are involved in sustaining the existing order. The question emerges why the main party representing the minority would not want to seek legal mobilization (as opposed to civil society actors) for a better implementation of minority rights. The answer lies with the two actors’ different situational positions and access to political opportunities – RMDSZ sharing power with Romanian parties, unlike civil society activists. Importantly, however, this difference is also underpinned by different values and collective identities that have an important bearing on how these actors understand their own minority agency. Vanhalla, in raising the question why some

groups turn to legal mobilization as opposed to others, hypothesized that the key factor determining whether an organization will actively follow equality goals and participate in judicial venues is whether the same organization conceptualized its constituency as “rights bearing citizens” (Vanhala 2011:32). It will be shown here that this difference is fundamental to how different actors define their identity and choose their actions in the current context, which also finds support in the definition of dissensus understood as activities of disruption “cutting across forms of cultural and identity belonging and hierarchies between discourses and genres” (Rancière 2010: 2). While civil society activists pursuing legal mobilization for minority rights mobilize ethnic Hungarians as rights-bearing citizens, RMDSZ in its collective action frames stresses the ethno-cultural belonging of minority Hungarians, which it tends to portray as being under threat, setting it in the context of an existential struggle.³ While this difference might seem semantic rather than substantial given that civil society activists fight for cultural rights as well, it has fundamental consequences for their dispositions assumed towards the Romanian state. Rights advocates hold the authorities accountable for the non-enforcement of their rights as citizens, and on that basis refuse to bargain about the implementation of minority rights granted by law. By assuming the disposition of citizens rather than that of a minority, they pursue effective participation in the political community. In contrast, RMDSZ operates by using the ethnic security frame, which renders minority Hungarians in the position of passive observers of the politicking played out by professional parties in the political arena. The next section will outline how systemic processes that – often called “hegemony” but labelled here the “police” after Rancière – “contain, channel, divert, and absorb citizen challenges” in the city of Târgu Mureş (McCann 2008: 4) and (re)distribute space along ethnic lines.

Minorities on the defensive against the “police”

In Romania, the legal environment regulating minority language rights is supportive, granting a wide range of rights to individuals belonging to minorities in the most important areas, such as public administration and education. The Law on Public Administration (215/2001) provides for using Hungarian in public where Hungarians constitute at least 20 per cent of the local population. This can be viewed as a significant achievement given that according to the 2011 census results, close to 80% of Hungarians living in Romania – i.e., around a million people – reside in localities where the use of Hungarian is granted by law (Kiss et al. 2018: 172). In the field of public administration there are fundamentally five areas where domestic law provides for the use of Hungarian: on public and place names signs; in administrative and official procedures; at local and county-level assembly meetings; in publicity or information of public interest; and at events organized by local governments. In other fields, such as in deconcentrated institutions (e.g., tax authorities or post offices) the same provisions of minority language use apply as to local government bodies.

Having such a generous legislative framework helps to sustain the illusion of equality: an important characteristic of the “police,” in the face of deficient implementation. The enforcement of minority language rights is largely confined to areas where Hungarians constitute a local majority. Otherwise, language rights have been sporadically enforced, especially in written communication with the authorities and in places where the share of Hungarians remains below 50%. Altogether, the use of Hungarian is comprehensively implemented in around a third of those municipalities where language rights should be granted by law (Kiss et al. 2018: 192-204). The European Charter for Regional or Minority Languages (ECRML) report found “the undertaking” of providing public services in Hungarian where

³ Speech by the president of RMDSZ, October 6, 2020. <https://www.rmdsz.ro/aktualis/hirek/Kelemen-Hunor-oktober-6-i-beszede>.

“minorities have a share of over 20% of residents” to be generally unfulfilled (Report of the Committee of Experts on the Charter 2012: 83).

These gaps between legal provisions and implementation can be explained by several factors. In principle, the central coordinating bodies and the prefects (the government’s representatives in the counties) would be responsible for holding the authorities accountable for the implementation of existing legislation. However, these bodies typically fail to follow up on the enforcement of minority language provisions. A further problem exists regarding deconcentrated institutions, where the norms of implementation for language rights are missing in sectoral legislation that regulates their operation. Thus, minority language rights mostly remain unimplemented by these institutions. It is a further problem that officers often do not have a sufficient command of Hungarian, especially related to bureaucratic matters. Fears of provoking conflict with the Romanian majority and concerns related to needlessly complicating the bureaucratic process also play a role (Kiss et al. 2018: 204-206). That the extra costs of bilingualism must be borne by local governments poses an additional significant impediment given the dire economic situation of many local governments in Romania. All these factors together constitute important veto points for those not much in favor of seeing or hearing Hungarian in public.

These problems that obstruct minority language use also persisted in Târgu Mureș, which used to be the traditional urban center of Szeklerland, Romania’s Hungarian majority region (and the center of the Magyar Autonomous Region established by Romanian communists between 1950 and 1968). In that city, Hungarians lost their ethnic majority position for the first time in the early 1990s. According to the latest census in 2011, Hungarians constituted 42% of the town’s population. Until 2000, city mayors were RMDSZ members, and even after that the party controlled the biggest caucus in the local assembly and has always participated in the local governing coalitions. However, despite the party sharing power in the city’s local government, bilingual street name signs and Hungarian scripts in bilingual schools were lacking, official communication with the local authorities was not provided in Hungarian, while public information and local assembly meetings were available only in Romanian. While there have been some improvements in these areas recently, largely as a result of the activities of civil society rights advocates (as will be explained in more detail below), institutions under the authority of the Mureș county administration, such as hospitals and the police, still do not offer communication in Hungarian, even though the head of the county local government is a representative of RMDSZ.⁴ Instead of fighting for the implementation of bilingualism in these public domains, RMDSZ focused its efforts on taking control of the leadership of key institutions in the city and establishing Hungarian educational institutions – notably, the Bolyai high school in 1990, the Reformed college in 2003, and the Hungarian Catholic high school in 2014. In order to enhance the symbolic visibility of Hungarian culture, the party also erected thirteen public statues of Hungarian personalities in the city center.

Institutional struggles have defined the city’s recent history, as disagreements over educational and cultural institutions between the Hungarian and Romanian community triggered events that escalated into the violent “Back March” protests in 1990 when interethnic clashes between Romanians and Hungarians even led to a number of deaths and around three hundred injuries (Stroschein 2012: 96). After decades of harsh communist repression in Romania, which involved aggressively persecuting minority culture, as the transition to democracy began in early 1990 Hungarians sought to establish their own institutions. Social mobilization started by taking control of the historical Bolyai high school and turning it into a Hungarian-only institution, causing tensions with local Romanians who regarded such moves as threats to their own identity and signals of irredentism (Roe 2002:70). Hungarian minority

⁴ Interview with a local RMDSZ politician, Târgu Mureș, 19 December 2019.

leaders offered a deal in exchange: that another prestigious school, the Papiu High School, would become a Romanian-only institution. The separation of the two high schools into exclusively Hungarian and Romanian institutions prompted protests by Romanian students, followed by counter protests by Hungarians. As Sherill Stroschein (2012: 100) commented on these events, “the Bolyai School had quickly become a symbol of Hungarian identity or ‘dignity,’ a focal point for Hungarian resentment of what they viewed as years of erosion of their linguistic and cultural institutions under the previous regime.” However, Hungarian students’ mobilization for Hungarian-language instruction at the medical and pharmaceutical university (UMP) in March was the most immediate trigger of Romanian protests, which were joined by the extremist nationalist organization *Vatra Româneasca*, which provoked inter-ethnic violence (Stroschein 2012: 104). While the Bolyai school eventually phased out Romanian classes and became an exclusively Hungarian-language institution, Hungarian-language instruction at UMP has remained an unresolved problem, indicative of how Hungarians have been losing ground in the last two decades.

Scholarly accounts of the city’s ethnic relations (Stroschein 2012; Roe 2002, 2005) sought to explain inter-ethnic contention by capturing the dynamics of ethnic antagonisms without problematizing the unequal power relations between the titular majority and the minority. While these works focus on the events of early 1990 when local power relations were still fairly uncertain, the following period plainly revealed how the playing field tilted in favor of Romanians, relegating Hungarians to an underdog position, especially in tense situations. A notable example is that of the UMP, in relation to which the university’s leadership has successfully prevented the creation of an autonomous study line in Hungarian, which in principle is a right granted by the law on education. The UMP occupies a central role in the city’s symbolic spaces as the institution contributing to the city’s identity as a medical hub in Romania. In *Târgu Mureș*, many influential public figures originate from the medical profession, among them the previous mayor who held the latter position for twenty years.⁵ The UMP was originally created as a Hungarian-language teaching university through a Romanian royal decree in 1945,⁶ while teaching in the Romanian language was first introduced in 1962 (Péterffy & Péterffy 2018: 64). Ever since, the university has functioned as a bilingual institution. In 2011, the Romanian government adopted a new law on education according to which multilingual universities, including the UMP, shall establish autonomous departments/units with teaching in a minority language, “with [their] own rules of procedure, an independent management level or university autonomy in the organization of teaching activities in minority language, as study lines or study sections.”⁷ However, the university’s senate invoked their institutional autonomy in order to resist the creation of such an autonomous Hungarian study section, which was confirmed by the courts in 2012 (Parallel Report 2016: 53). In the face of the resistance of UMP’s leadership, the liberal government led by prime minister Ungureanu tried to introduce a government decision in 2012 that would have enforced the creation of the Hungarian autonomous study line. This contributed to the fall of the government after just a few months in office due to the opposition social democrats’ no-confidence vote, triggered in part by this issue.

Although the lack of educational autonomy of the Hungarian study line does not necessarily imply the infringement of the right to education in Hungarian language, as Hungarian classes have continued at the university, in practice, the university’s leadership has gradually reduced the scope of Hungarian teaching since 2012. In the absence of any institutional autonomy of the Hungarian faculty, the university’s senate can easily overrule Hungarian professors who constitute only one-third of the senate’s membership. A new

⁵ Interview with András Kósa, former activist of RMDSZ in *Târgu Mureș*, Bucharest, 19 July 2020.

⁶ Royal Decree no. 407 of May 29, 1945.

⁷ Article 135 of the Law on Education No. 1/2011.

provision was introduced into the university charter according to which all practical training should be held exclusively in Romanian. This was challenged by the Hungarian Association for Medical and Pharmaceutical Education in Romania (the professional organization of Hungarian medical doctors and pharmacists in Romania), in a lawsuit against the university in 2012, which they lost before the supreme court in 2016.⁸ The final decision was welcomed by the rector who argued that the unwillingness to compromise by Hungarian professors had led to the current situation.⁹ The creation of an autonomous Hungarian study line then continued to be denied under the pretext of not having enough Hungarian professors for accreditation purposes, while the recruitment of new professors was controlled and effectively constrained by the university senate.¹⁰ In referring to the insufficient number of Hungarian professors, in 2019 the Agency of Higher Education in Romania (ARACIS) also reduced the number of Hungarian students to be recruited from 200 to 120 from the following academic year onwards, while increasing the number of Romanian students from 270 to 300.¹¹ While the university's leadership has been busy marginalizing Hungarian education at the UMP, it created a new autonomous department for teaching in English in 2019.¹² In 2018, the UMP merged with another university, the University of Petru Maior, against the will of the Hungarian professors at UMP, whose representation at the university was further reduced from 30% to 20%.¹³ In the meantime, the law on education which foresaw the creation of the autonomous Hungarian study line is still in force, yet remains non-implemented.

The issue has become a hot potato for RMDSZ. Although it joined the legal case against the university's charter initiated by the professors on behalf of the Hungarian Association for Medical and Pharmaceutical Education in Romania, the feeling that the party had left the Hungarian professors to their own devices was widespread even before the court rejected their petition in 2016.¹⁴ The party has effectively given up on the UMP, seeing no hope for creating a Hungarian autonomous study line. Although from December 2009 to May 2012, and in most of 2014, RMDSZ participated in various governments in Bucharest, it seemed to lack the means to intervene effectively in this situation, and as a result shied away from publicly putting this issue on the agenda with Romanian partners. The problem is not treated by RMDSZ politicians as an obvious case of the violation of the rights enshrined in the Romanian law of higher education, but rather as a minority issue where it is better not to push things too far lest it makes everything worse. Speaking clearly about the UMP fiasco has become taboo in the current political climate, in the absence of expectations that rights violations will ever be acknowledged, let alone addressed, by the majority.¹⁵

Similarly, local interests have jeopardized the resolution of the legal status of the Hungarian Catholic high school, II. Rákóczi Ferenc. The school was meant to take over the historic building of the Romanian high school Unirea in the city center, which was given back to the Roman Catholic Church, which in Transylvania is a traditional Hungarian church, in

⁸ "Bírósági ítélet erősíti meg a diszkriminációt a MOGYÉ-n" (20. April 2016).

https://foter.ro/cikk/20160420_birosagi_itelet_erositi_meg_a_diszkriminaciot_a_mogyen/.

⁹ "MOGYE-ügy: a rektor szerint „erőltetett” összekapcsolni az angol és a magyar fakultás ügyét" (18 January 2019). <https://kronika.ro/erdelyi-hirek/mogye-ugy-a-rektor-szerint-eroltetett-osszekapcsolni-az-angol-es-a-magyar-fakultas-ugye>.

¹⁰ "Újabb gondok a MOGYE-n" (13 January 2013).

https://www.szatmar.ro/Ujabb_gondok_a_MOGYEn/hirek/62328.

¹¹ "A megsemmisülés felé halad a magyar orvostudomány Erdélyben," *Székely Hírmondó* (30 July 2019).

¹² "Angol nyelvű kar létrehozásáról döntött a marosvásárhelyi MOGYTTE szenátusa," *Transindex* (16 January 2019).

¹³ "A MOGYE beolvasztásának eredménye" (24 October 2018). <https://www.civilek.hu/hirek-osszes/mogye-beolvasztasanak-eredmenye/>.

¹⁴ "MOGYE-ügyben tüntet a RMOGYKE az RMDSZ-kongresszuson," *Transindex*, 24 May 2013.

¹⁵ Interview with Etelka Tamás-Balha, a civil activist, Târgu Mureș, 19 December 2019.

2004 through property restitution. Until the 1948 nationalizations by the communists, the building was home to the Catholic high school, offering Hungarian-language instruction in a largely ethnic Hungarian city, where the share of Hungarians was still above 70%. However, despite the positive restitution decision, there is little hope that the Romanian school will ever move out of the building, making way for a Hungarian school.¹⁶ The restitution of the school building to the church in 2004 was challenged in court by the Romanian mayor of the city, but the supreme court ruled in favor of the church. In 2014, the local government approved the re-foundation of the Hungarian Catholic high school, which started its operation on Unirea's premises, the two schools sharing the same buildings. According to the rules on restitution, the Catholic church had to let the Romanian school function in the building until 2009. However, the local government approved the re-establishment of the Hungarian Catholic school under the condition that the Romanian school could stay in the building for twenty more years. In the meantime, Unirea school's leadership attacked the Hungarian school's operating permit at the ministry of education, which started an investigation into the school's foundation documents. As a consequence, the county prefecture and the anti-corruption prosecutor (DNA) challenged the legality of the school's foundation, arguing that the process of the school's establishment was not fully in line with the legal and formal requirements. In 2017, the operation of the school was suspended by a court decision, and its classes were integrated into the Bolyai High School. At the initiative of RMDSZ, the parliament adopted a law on the re-founding of the Catholic High School in February 2018, which was attacked by two opposition parties, PNL and PMP, in front of the constitutional court. The court found that the law through which parliament had recreated the school was unconstitutional as it infringed upon the autonomous competencies of local governments. Afterwards, the government provided the school's operating permit through a ministerial order, so the school could be relaunched in September 2018.¹⁷ However, a local representative of Mureş county again successfully sued the ministry of education and the Catholic school for illegally reestablishing the school. The school continues to operate in a legal limbo, and a solution seems far out of sight.¹⁸ According to local observers, the real stake in this game is the school building, which the local Romanian establishment does not want to turn over to the Catholic church. If the school were willing to operate in another venue, there would be no problem with receiving a legal permit.¹⁹ This explanation seems to be supported by a statement by Dorin Florea, the city's mayor at the time, who maintained that the church should give up on the building where an institution that serves national interests is operating.²⁰ In the meantime, the local Romanian media and politicians have continued to question the legality of the restitution of the school building to the Catholic church; however, this has not yielded any results owing to the legally binding decision of the supreme court.²¹ Hungarian parents protested several times in 2017, supported by the Catholic archbishop of Alba Iulia, against the continuing legal limbo and the intimidation of parents by the DNA. Many parents were called in for questioning by the anti-corruption body which inquired whether they had enrolled their children in the school under duress, and what they knew about the school's foundation.²²

¹⁶ "Pizskos eszközökkel harcolnak az unireások a „hazaköltözött” katolikus gimnázium ellen," *Maszol* (3 August 2016).

¹⁷ "Megjelent a marosvásárhelyi katolikus iskola újraalapításáról szóló miniszteri rendelet," *Krónika* (10 August 2018).

¹⁸ Interview with the Catholic school's director, Zsolt Tamási. Târgu Mureş, 20 December 2019.

¹⁹ Interview with a local RMDSZ politician, Târgu Mureş, 20 December 2019.

²⁰ Facebook post of former mayor, Dorin Florea, 18 January 2017.

<https://www.facebook.com/dr.dorin.florea/posts/1211492425632116>.

²¹ For instance, Marius Paşcan, a local representative in the county assembly, who is a vocal supporter of Romanian interests in the city.

²² '„Nem a házi feladat nincs meg, hanem az iskola” – tüntetés Marosvásárhelyen,' *Krónika* (27 February 2017).

How Hungarians have been losing ground in the last two decades is clearly demonstrated by the losing battles over the UMP and the Catholic school, which give a glimpse of the difficulties the fight for the symbolic occupation of spaces involve. It was civil society activists – primarily professors, teachers, and parents – who took up the legal fight in the courts. RMDSZ reluctantly joined the legal contest in the case of UMP, probably to save face in front of the Hungarian community. While the party gave up on establishing a Hungarian department at UMP relatively easily, it mobilized its political connections in Bucharest to save the Catholic school. While RMDSZ was willing to take part in these defensive fights that were imposed on the community in the form of majority counter-mobilization through bargaining for solutions with its Romanian political partners, it has been much more reluctant to support legal mobilization efforts by civil society activists who proactively stood up for the rights that were granted by law but never existed in practice.

Minorities on the offensive through political dissensus

The inferiority and marginal position of Hungarian language and culture in the city goes largely unquestioned not only by local Romanians but also by most Hungarians.²³ To what extent this logic permeates the thinking of both Romanians and Hungarians was exposed by a recent survey research, which showed that the anti-Hungarian attitudes of Romanians were most sharply manifested in negative attitudes towards the language, and rejection any aspects of linguistic symmetry in the public domain. The research also revealed that Hungarians did not perceive themselves as being discriminated against – which the authors explained by claiming that the Hungarians lack rights consciousness, and political elites rarely use the language of anti-discrimination. The strongly discriminatory elements of linguistic norms advocated by the majority were simply not interpreted in an anti-discrimination frame by the minority (Toró & Kiss 2020: 41), which shows how this discriminatory order has been taken for granted by minority Hungarians, how much this way of looking at things has become “the law of the police, where everybody is in his own place, with his own job and his own culture....” (Blechman, Chari & Hasan 2005: 292).

Dissensus starts with bringing to light the denial of these rights to the community itself (Rancière 2010: 68). For Rancière (2010:69), “dissensus is not a conflict of interests, opinions or values; it is a division inserted in ‘common sense’: a dispute over what is given and about the frame within which we see something as given.” Breaking with this law of the police that assigns to persons belonging to the minority “their place in (or outside of) the symbolic space of the community” starts with minority activists speaking the language of equality, by which they try to raise awareness of the community (Blechman, Chari & Hasan 2005: 292). In practice, this is done through the social mobilization of people for advocacy campaigns, which CEMO has used on many occasions to reinforce its legal initiatives – to be discussed in the following. Behaving as full member citizens and demanding that the state treat them as such rather than as members of a national minority has been another central feature of CEMO’s strategy. For instance, while addressing rights violations in the field of education, activists prefer to turn directly to the ministry of education rather than to the secretariat of minorities led by RMDSZ, which in principle should deal with educational matters if these concern minorities. This is what happened in the village of Koronka on the outskirts of Târgu Mureş, where Hungarian parents organized themselves with the help of CEMO against the appointment of a new school director. The situation involved a mixed school where Hungarian pupils constituted the majority, yet the county school inspectorate replaced the Hungarian headmaster with a Romanian director against the wishes of most parents and teachers.²⁴ In order to circumvent the county school

²³ Interview with Enikő Szigeti.

²⁴ “Magyar igazgató került a koronkai iskola élére,” *Maszol* (19 February 2017).

inspectorate, CEMO directly addressed the ministry of education with their request, which ordered the inspectorate to reinstate the Hungarian director. The inclusion of the ministry of education in the resolution of minority educational issues often tends to be the best way to settle problems, according to CEMO's experience.²⁵

Activists emphasize that the state must treat Hungarians as equal citizens and should meet its legal obligations that are due to them as such. The main issue is not the content of the rights that are being violated, but the fact that the rights granted by law are not being respected. While deliberately adopting this disposition against all the odds, rights advocates also express deliberate trust in Romanian authorities that is based on principled expectations rather than past experiences. They approach the authorities with positive hope, behaving as if such expectations could be clearly anticipated, as their claims are grounded in rights-based argumentation, while ignoring the negative record of the state that systematically violates these rights. They act as if they had the rights they do not have (Ranci re 2010: 69), thus through dissensus enact the rights that belong to them, but which are denied by the confining order.

Many cases prove that even if the Romanian state authorities act in bad faith and try to limit the implementation of minority rights provisions, legal mobilization can lead to positive outcomes. While litigation in the narrow sense (i.e., court procedures) has rarely led to a better enforcement of minority rights, other legal actions such as procedures launched with the National Council Combatting Discrimination (NCCD) or petitions submitted to public authorities such as local governments, prefects, or ministries have sometimes resulted in successful rights assertion.

Bilingual street name signs

CEMO fought for bilingual city name signs in T rgu Mure , yet without any success. CEMO's lawsuits were accompanied by an advocacy campaign between November 2014 and March 2015, when activists erected around 180 bilingual street name plates on their private properties. The police responded by fining activists and property owners with penalties of a few thousand euros on the basis that putting out street name signs amounted to illegal advertising. Although many private properties displayed monolingual street name signs on their gates or walls, only those owners were fined who put out bilingual signs. After CEMO sued the local police in court, the court in 2016 cancelled the fines and declared that the police action was abusive and disproportionate.²⁶

CEMO started its legal mobilization with a complaint submitted to the NCCD in 2014, which found the lack of bilingual street name signs to be discriminatory. However, the mayor's office successfully appealed this decision at the court of appeal. Subsequently, CEMO together with the NCCD challenged the appeal court's ruling in front of the supreme court in June 2015, which rejected their petition, so this case was lost at the highest level.²⁷ The main reason why this litigation failed was that the Law on Public Administration 215/2001 leaves street name signs in the grey zone by not explicitly regulating them, but only addressing the names of "localities" which must be bilingual when the share of minorities surpasses 20 percent. However, the Committee of Experts of the European Charter for Regional and Minority Languages (ECRML) interpreted the obligation signed and ratified by Romania in Article 10 Paragraph 2/g that "traditional and correct forms of place names in regional and minority

²⁵ Interview with Enik  Szigeti.

²⁶ Civic Engagement Movement (CEMO), "Shadow Report to the Second Periodical Report on the Implementation of the European Charter for Regional or Minority Languages in Romania," T rgu Mure /Marosv s rhely (July 2016).

²⁷ "Marosv s rhelyi utcan vt bl k – Legfels bb b r s g: nem diszkrimin ci  a k nyelv s g hi nya" (22 November 2017). <https://www.erdely.ma/marosvasarhelyi-utcanevtablak-legfelsobb-birosag-nem-diszkriminacio-a-ketnyelvuseg-hianya/>.

languages” should also apply to street name signs during its monitoring mechanism. The ECRML report as of 2012 critically remarked that street name signs in Târgu Mureş were either only in Romanian or partly bilingual, where only the word ‘street’ or ‘square’ was translated into Hungarian, while displaying the street name only in Romanian (Report of the Committee of Experts on the Charter 2012: 83). However, the mayor’s office and the court of appeal argued that the ECMRL should be implemented through internal legislation before it could be applied domestically, which was accepted by the courts. Romania’s having signed the ECMRL seems to provide a fig leaf for the denial of minority rights rather than a guarantee of better rights assertion, as the ECRML remains unimplemented in domestic legislation.

CEMO also took legal action in relation to bilingual street names against the ethnic Hungarian mayor of the city of Satu Mare who belonged to RMDSZ, in 2016. The mayor rejected CEMO’s demand to install bilingual street name signs by arguing that the city had no such legal obligation based on the laws of Romania. He further argued that installing bilingual signs would be financially too onerous for the city’s local government. CEMO lost this case at first instance in 2017 (Pap 2017). Nevertheless, the local government ultimately installed bilingual street name signs in a district on its own initiative, which was legally challenged by the county prefect who argued that the law did not refer to street name signs.²⁸ The prefecture lost this case in a legally binding decision in 2018, so the courts approved the local government’s initiative of displaying Hungarian street name signs.²⁹ This case shows that when the law is permissive yet not obliging, the implementation of minority language rights is allowed but depends on the goodwill of local power holders. In such cases, litigation and other forms of rights claiming have largely failed to produce favorable outcomes, revealing the effective limits of these rights.

Communication with public authorities

CEMO also raised complaints at the local government in Târgu Mureş that programs organized by the municipality were rarely advertised in Hungarian.³⁰ Annoyed at their pestering, the mayor, known for his anti-Hungarian attitudes, began to publish information also in Hungarian. Activists also tested the local government’s readiness to accept administrative requests in Hungarian by showing up in person as citizens requesting service in Hungarian. As the local administration was not up to the task, CEMO sued them, after which without waiting for the court’s decision, the former hired a Hungarian-speaking administrative clerk.³¹ In the last four years, the city local government has begun to translate most of its communication into Hungarian, while RMDSZ deputies have started speaking in Hungarian in assembly meetings at which simultaneous translation was organized.³² Such recent progress is probably not independent of the activities of rights advocates, who, through their petitioning, have often shamed RMDSZ representatives.

Bilingual linguistic landscape in schools

Another subject of advocacy picked up by CEMO has been the lack of a bilingual linguistic landscape, such as information of public interest, the names of classrooms, bulletin boards, and homepages in elementary and middle schools in the city’s bilingual schools – e.g., schools in which education is conducted with parallel Hungarian and Romanian classes, which are most

²⁸ “Szatmárnémetiben is nemet mond a kétnyelvűsége a prefektúra,” *Krónika* (8 January 2018).

²⁹ “Jogerősen pert vesztett a prefektúra a szatmárnémeti magyar utcanevek ügyében,” *Krónika* (11 February 2018).

³⁰ “Nyílt levélben üzent a CEMO az RMDSZ-nek” (5 January 2018).

http://itthon.ma/erdelyorszag.php?cikk_id=23249

³¹ Interview with Enikő Szigeti.

³² Interview with an MP of RMDSZ.

schools in the city (Kiss et. al 2018: 145). In the mixed-language schools, the internal landscape is exclusively Romanian, which is contrary to the relevant legal provisions defined by the law on public administration,³³ yet schools on the whole refuse to accept Hungarian inscriptions.³⁴ The schools' linguistic landscape reflects the generally marginal status of Hungarian pupils in these schools, who also tend to occupy classrooms in worse physical condition.³⁵ CEMO filed a complaint against the local government before the NCCD in 2013 because of the monolingualism of the whole school network in Târgu Mureş. In response to their petition, the NCCD put together a seven-point list of criteria for schools to follow in bilingual educational institutions. As most school interiors remained monolingual, CEMO initiated a campaign of donating bilingual signs to schools, with Hungarian parents organizing a series of flash mobs in front of one school to convince the school director to accept their donations of bilingual inscriptions.³⁶ The Directorate for Investment and Reparation of Schools of the Mayor's Office of Târgu Mureş threatened schools with a fine if they "illegally" erected signs "donated by third parties." Subsequently, CEMO sued the Directorate for breaking the law in 2016.³⁷ Since the schools continued to refuse to adhere to the criteria defined by NCCD, in 2016 CEMO brought petitions against 31 educational institutions in Târgu Mureş at the NCCD. The NCCD found that 17 of these institutions had discriminated against Hungarian students, while giving them three months to stop the discrimination against Hungarian pupils. Some schools began to use bilingual signs in response to this legal procedure, yet in most cases the schools refused to comply with the NCCD's decision.³⁸

The lack of a bilingual environment in schools is also the outcome of Hungarian parents' not asking for Hungarian signs. In principle, every parent can volunteer to participate on the school boards which make decisions about such matters, yet in most school boards in Mureş county Hungarian parents are underrepresented by their own choice. If they were more willing to voluntarily participate in school boards, they would have more opportunity to raise complaints more successfully.

Conclusions

The institutional battles of the last three decades have shown how rules of the "police" constrain minority action under the duress of the symbolic distribution of public spaces in the city of Târgu Mureş. The present article aimed to shed light on the spatial nature of such ethnic contests which have been fought first over the control of key institutions in the city, while lately over the city's general linguistic environment. The minority political elite have for long been playing by the rules through seeking consensus within the regime of "unequal accommodation," yet the limits of this strategy became painfully obvious after Romania's EU accession, which was illustrated here by the plight of Hungarian education at UMP and in the Catholic school. The dominant minority rights regime of "unequal accommodation" and "linguistic territoriality" pitted not only majority against minority but also the minority political elite against the rest of the minority community. As the community has lost significant ground due to majority counter-mobilization exemplified by the struggles over the UMP and the Catholic high school, CEMO through its direct actions managed to tap into a growing disconnect

³³ Law No. 1/2011 on National Education and Law No. 215/2001 on Local Public Administration.

³⁴ CEMO, 52.

³⁵ Interview with Enikő Szigeti.

³⁶ CEMO, 49.

³⁷ CEMO, 53-54.

³⁸ "Peres eljárás a marosvásárhelyi Polgármesteri Hivatal Iskolaigazgatósága ellen Marosvásárhely," (2016-2017, 31 December). <http://cemo.ro/peres-eljaras-a-marosvasarhelyi-polgarmesteri-hivatal-iskolaigazgatosaga-ellen-a-magyar-kozosseg-anyanyelvhasznalati-jogainak-nem-alkalmazasa-miatt-a-vegyes-iskolak-belso-tereiben/>

between RMDSZ and its popular base somewhat reshaping the political landscape at the local level. By performing the “politics of dissensus” they rejected the ethnonationalist logic of contested symbolic spaces by raising demands for equality and bilingualism in integrated social spaces. Civil society representatives went on the offensive through their legal mobilization initiatives challenging the prevailing order of the ethnic spatialization of the city, which has been taken for granted by both minority and majority citizens. Through their legal actions they also challenged the hegemonic position of RMDSZ and claimed agency for minority citizens. The legal mobilization initiatives discussed here also reveal that part of the reason why the minority rights of Hungarians remain unenforced is that the latter do not demand them. Asking for rights is the first step in asserting them – a tactic which has, surprisingly, worked well in terms of demanding communication in Hungarian language with and by the local authorities, and regarding some aspects of educational rights. The experience of civil society activists suggests that rights claiming through legal mobilization has the potential not only for more effective rights assertion, but also for a better integration of the minority into the political community of Romania.

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