

New Europe College Yearbook 2002-2003



MADEEA (SÂSÂNĂ) AXINCIUC
CAMELIA BECIU
MIANDA CIOBA
ALEXANDRA CIOCÂRLIE
IRINA CULIC
CRISTIAN GAȘPAR
VICTOR RIZESCU
ȘTEFAN VIANU
LIVIU VOINEA

Editor: Irina Vainovski-Mihai

Copyright © 2005 – New Europe College

ISSN 1584-0298

NEW EUROPE COLLEGE

Str. Plantelor 21

023971 Bucharest

Romania

Tel. (+40-21) 327.00.35, Fax (+40-21) 327.07.74

E-mail: nec@nec.ro



IRINA CULIC

Born in 1969, in Cluj-Napoca

Ph.D. in Sociology, "Babeş-Bolyai" University in Cluj-Napoca, 2001
Dissertation: *Political Elite and Democratization in Romania, 1989-2000*

Associate Professor, "Babeş-Bolyai" University in Cluj-Napoca,
Department of Sociology
Senior Researcher; Scientific Secretary, Research Center for Interethnic
Relations, Cluj-Napoca

Research Fellow, School of Slavonic and East European Studies,
University College, London, 2001-2002

Visiting Professor, Central European University, Budapest,
Department of Political Science, 1999-2001

Participation in several international comparative projects financed by
European Union, World Bank, United States Agency for International
Development

Conducted several national researches on interethnic relations,
including the *Barometer on Interethnic Relations*

Participation in international conferences and symposia in
Hungary, Germany, Switzerland, England, Romania, Bulgaria, Norway

Book

Câștigătorii. Elita Politică și democratizare în România, 1989-2000
[The Winners: Political Elite and Democratization in Romania, 1989-2000],
Limes, Cluj-Napoca

Several articles and studies in academic publications and volumes

STATE AND NATION BUILDING IN CENTRAL AND EASTERN EUROPE AFTER 1989

The dismantling of the communist system and the collapse of the supranational authority of Moscow in 1989 gave way to a process of state redefinition and building. Most Central and Eastern European states were refashioned as national states in accordance with archetypal modern patterns. The main domestic and foreign policy aims of these states were as follows: internally, to settle and legitimate state authority, establishing the full control of central domestic political authorities over the military and other security forces; internationally, within the present international system of states, to settle itself as a political unit of international law, and as a sovereign state with clearly defined territory, political community, and relationships with other states. To this end, most CEE states followed a maximal territorial and national state project, negotiating the maximal territory possible in accordance with historical-national, demographic or legal-constitutive principles. They shaped their states as the nation-states of a titular/dominant nation, and promoted remedial policies that promoted and enhanced the language and culture of the titular nation. Finally, they strived to advance in the process of economic, political, and military integration in the Euro-Atlantic structures in the endeavor to ensure national security and stability, and security for the region.

In the following, I will concentrate on the process of state building as institution designing and establishment, as well as state building *qua* nation building. The idea of nation understood in ethno-cultural terms had emerged and naturalized in Central and Eastern Europe before states were established and the notion of forging a nation out of a citizenry had never occurred in the region's national projects. Nation building is still an important project in these states, and this paper will look at the various strategies employed to in achieving it.

Methodologically, an historic approach will be employed, and the institutions will represent the focus of the analysis. The processes of state

building and nation building will be inferred from constitution writing efforts and constitution analysis, and examination of legislation on citizenship, national minorities, language policies, local administration, education and co-ethnics abroad, and bilateral treaties, ratified international conventions and associated documents.

The Modern Political Space: States and Nations.

States and nations have a common history of theoretical and empirical research and have very often been treated as interchangeable analytical objects.¹ However, the distinction between the two concepts has been made clear in many studies that elaborate on their different ontological position and the historical relationship between the two.²

In order to understand the present organization of political space into modern states, I propose an analytical framework that will place states in three dimensions.

Firstly, state institutions and processes are determined by *the internal social structure of the population*. This can refer to the structure of classes attending to their possibly conflicting interests, the struggle between status groups or national groups attempting to impose their cultural or ideological dominance, or political parties playing each other off against each other. Most often they are constitutive and expressive of the nature and basic institutions of the state.

Secondly, *the international order of states*, i.e., *the position of states relative to each other and their general position within a world system of sovereign states*, produces a set of specialized institutions. These are typically organized according to principles shaped by the consensus of the dominant coalition or group of states in terms of the appropriate form of legitimization.

Thirdly, state institutions and strategies are determined by *transnational, supranational and global organizations of various sorts that encompass them*. Whether economic, legal, or social, they infringe upon the sovereignty of the states and require institutional and social arrangements to meet their conditions.

In the first dimension, statehood is conceived of as a sociological given, an empirical object rather than a legal category. Mann contends that the state is made up of a differentiated set of institutions and personnel

embodying centrality in the sense that political relations radiate outwards from a center to cover a demarcated area, over which it exercises a monopoly of authoritative binding rule-making, which is backed up by a monopoly of the means of physical violence.³ This definition of states focuses attention on the administrative and legal orders, the binding authority over both the population and all activity in the territory, the centralized territorialization of authority, and, therefore, the state autonomous power. At this level of internal organization of the state and empirical attributes of statehood, the *de facto* existence of states is tested by the condition of stateness:

There is no conflict over political authority and political domain;

There is no conflict over popular identities and loyalties (an integrated political community);

Officials elected in free elections actually hold the monopoly of legitimate force and have the capacity to enforce legislation and implement policies throughout the realm.

The second dimension of analysis refers to an ontologically different position of the state, i.e., its recognition within an international system of sovereign states – emphasizing the *de jure* attributes of statehood.⁴ Accordingly, states are defined as sovereign jurisdictions. Sovereignty, understood as the institutionalization of public authority within mutually exclusive jurisdictional domains,⁵ is the first constitutive rule of the international organization of states. The international system of states and its order are based on the mutual recognition among government leaders that they each represent a specific society within an exclusive jurisdictional domain.⁶ This recognition is gained and based on some understanding of legitimacy. How political actors define the political and geographic boundaries of legitimate authority over territory and populations strongly affects the principles on which the international system functions.⁷

Historically, it was the Peace Treaty of Westphalia in 1648 that created an international community of law, based on a collection of binding principles. Asserting peace as the ultimate goal of the community of states, true friendship and the permanent forgetting of the past,⁸ the treaty was the first to follow a principle different from than that of the boundless right of the victorious party. All parts, Catholics and Protestants, monarchies, principalities and republican forms of government had equal standing in negotiations and the formulation of the treaty. Clarifying

territorial jurisdictions on the basis of historical possession, and thereby ending the Catholic Church's claims to transnational political authority and the complicated jurisdictional entanglement among nobles, kings, monarchs, and clerics, the treaty consecrated the principles of *sovereignty* and *equality* of the states. The sovereign character of the states and the solemn interdiction to intervene in their internal affairs constituted the foundation of the international system of states.

If historical possession had been established as the principle that determined how sovereignty would be created or transferred, after the French revolution legal possession and dynastic claims ceased to be the sole grounds of legitimacy.

As Claude put the matter, legitimization means that "power be concerted into authority, competence be supported by jurisdiction, and possession be validated by ownership."⁹ This means that the ability of a political group to seize control over its territory and defend it against both internal and external attack requires eventual internal and external legitimization (those are two different problems and should be treated accordingly) in order to gain sovereignty. Apart from historical possession, the currently accepted bases of legitimacy are national borders (national self-determination) and viability. The consecration of national self-determination as the basis of legitimate statehood was probably the most significant development of the 20th century.

Legitimacy and legitimization are political, legal and moral functions and processes. The norms and principles of (external) legitimacy and sovereignty are constantly being reshaped through political interaction and self-interest. State sovereignty develops as the result of continuously developing international relations, and is constitutive of the international system of nation-states. Moreover, as Barkin and Cronin argue, the "legitimation of the nation-state in a particular era is determined largely by the principles around which the winning coalition unites during the course of a great war, as well as in its aftermath, as the dominant coalition constructs a new international order."¹⁰

Since the Second World War, states have been created and brought into supranational structures,¹¹ "transnational power networks, especially those of global capitalism and post-modern culture."¹² In my opinion, these new political forms both *infringe on the sovereignty of nation states*, in terms of their stateness, by claiming a share of the authoritative binding rule-making in their domains, and *strengthen them*, by the international recognition in all the senses of the word – the economic, social and

political support and security guarantees they provide. If international organisms, such as the European Union, attempt to standardize the law within their reach, in particular economic policy, and rest on the rulings of, say, the European Court of Justice thereby removing several economic and defense functions from states; and if international organisms that, in observing human rights, encroach on the capacity of states to control citizenship and define their given populations through mechanisms of closure, these states gain functions in areas that were previously more private and local. National education, welfare, religion, moral issues, family, culture and identity policies – all increasingly fall under the realm of nation states and produce self-contained distinct units with great potential for national mobilization.

Nation and nationhood, nation-building and nationalism, and their relations with state and statehood, state-formation, and state policies were conceptualized in several path-breaking pieces of social theory, sociology, anthropology and political science, and which have now become classics of the study of nationalism.¹³

The dominant theories of nationalism conceive modern nations as creations of modern states, would-be states or some institutional territorial form. They emerged as imagined political communities, as a result of the requirement of capitalist industrialization for homogenization (standardization of language, provision of universal basic education, common loyalties and values, etc.), and of administrative, territorially centralized processes.¹⁴

We may argue as to whether the “community of sentiment”, ascribed to nations and used politically in the nationalist projects of self-determination, is the consequence of territorialized institutional dissemination of “invented” or re-invented myths of ethnogenesis, descent, history and fate, or whether it has any substantial components. There does exist, however, an “emotional” reality of nations, which is permanently substantiated in everyday interaction and self-identification processes. Nation is internalized through socialization and takes the form of durable dispositions, structuring and being structured by social interaction, giving orientation to social practice and configuring social representations. Ideas and concepts of “nation”, and all its ingredients, function as operators in a vast and complex system of social classifications and categories of practice. Social processes (associated with the functioning of modern states and with the ceaseless processes of differentiation and identification by distinction) have created nations “real”

communities in this sense, capable of mobilizing strong sentiments and generating social and political action. The institutionalization of these social classifications and categories of practice that provide the grounds for authority and legitimacy, has “naturalized” nations (as given), granting them social reality.

From a common sense point of view, knowledge of nation and ethnicity in Central and Eastern Europe structures according to the primordialist model, which sees nations as natural givens that are constitutive of the human condition and an-historic.¹⁵ Historical discourse in general, most social and human science traditions, and dominant public and political discourse are all shaped around the historical cultural-symbolic significance of the ethnic nature of modern nations.¹⁶ The fluidity of ethno-symbolic elements that define a nation and the versatility of national historiography are symptoms of the continuous processes of national identity construction and nation building, in which cultural difference is organized by the interactions of persons mutually representing each other.

In the present-day institutionally advanced regulated system of states, nation (ethnicity, culture) has become very highly politicized and politically formalized and regulated by state and supra-national institutions. They use and elaborate discourses on the elements constitutive of the nation and their significance. Linguistic policies are a case in point. Language is ascribed uses other than communication and expression. It is considered a treasure that must be cherished and protected from foreign influences, an instrument of national identification, a tool for integration, etc. Take, for example, the “Law for the protection of the Romanian Language”, better known as the Pruteanu Law after the senator who initiated it, or the 2001 revised Law of Local Public Administration that sets the more or less arbitrary threshold of 20% for the size of a minority population before it’s language can also be used in official situations next to Romanian in a given locality.¹⁷ The dynamics of the terminology used to describe the various population categories of a state is also a symptom of this: natives, ethnic groups, ethnic minorities, national minorities, etc. Devising categories and imposing denominations is always a politically motivated process and engenders the organization of interaction according to their logic.¹⁸

State-Building after the fall of the Soviet System.

Most of the states that declared their independence after the fall of the communist regime or engaged in a democratic transition defined themselves as both *democratic (nation) states*, which vest power in all their people (citizens), and *national states (Nation states)*, created of and for the protection and enhancement of one definite nation. Though not wholly contradictory, since the concept of the modern (nation) state as a participatory state implies a given homogeneity of the population, there is an inherent tension between the two principles of nation and democracy. The conflict is further augmented by the incongruity between the nationalizing state policies carried out with legitimate aim of strengthening the state and which favor the language and cultural symbols of the dominant nation, and the democratic policies of state-making in which all citizens are accorded equal individual rights. The conflict takes place mainly within the national (internal) realm of states, where a particular type of national(ist) sentiment, bred in a space of uncertainty, existential insecurity, poverty, fast changes and polyphonic political discourses, is played against the concrete idea (objectified in a normative standard of Western democracy and the free market, observance of human rights and international legislation) of integration into the European and larger structures.

The fall of the communist regimes in Eastern Europe was a direct result of the loss of legitimacy of their leaderships, together with the ideological and economic bankruptcy of the various variants of these political systems (in the context of Gorbachev's economic reform and transparency doctrine that had replaced the Brezhnev interventionist doctrine). In their efforts to re-lay the foundations of their states, the new political elites tried to dissociate themselves from the former communist leadership, ideology and political structures, while struggling to preserve and selectively emphasize those elements of national history that supported the independent existence of their states. This involved the attempt to recover episodes in history in which the nation had enjoyed statehood and where possible demonstrate the legal continuity of their states, and promote those elements of nationhood of which the nation had been deprived or that had been altered: language, territory, control of citizenship and resources of the homeland, etc.

The main strategy was to look for scapegoats and appeal to a rhetoric that radicalized a favorable national understanding of the communist

take-over, interpreting it in a one-sided way: communism was the result of foreign invasions and had been imposed on the nation; local communists were recruited on a large scale from national minorities (e.g., Jews and Hungarians in Romania, together with foreign Russians). The nation had been victimized and was therefore absolved of any responsibility or guilt. The internal elements of legitimization appealed to the idea of past periods of independence and perceived prosperity of the country: for many of these states this was the interwar period, or an earlier "Golden Era" in the popular history and historiography of the nation. Attempts were made to establish continuity between the ethos and practices of that period and the present, often materialized in nationalizing policies (e.g., citizenship, linguistic, or minority policies).

The processes of *constitution writing* laid the legal and symbolic foundations of the democratizing and the newly independent states. It defined the character and organization of the state, in most cases explicitly and determinedly unitary, indivisible, independent and sovereign. More problematic, however, was the case of states whose statehood was associated with universally discredited regimes (e.g., the Ustasha Independent State of Croatia, or the Slovak state that functioned as a German protectorate during the Second World War) or which, historically speaking, had no experience of independent statehood whatsoever. The shorter the *experience of statehood* and the shakier its substance, and the harsher the perception and reality of foreign direct or indirect rule, the stronger the emphasis on the independence, unity and national character of the state in the founding document of the country.¹⁹

According to Barkin & Cronin, the rules of sovereignty, defined as the set of principles by which the international community recognizes the legitimacy of authoritative control over a specified population and territory, are neither fixed nor constant, but subject to changing interpretations. They argue that there has been historical tension between two different conceptions and practices of sovereignty: *state sovereignty*, which stresses the link between sovereign authority and a defined territory, and *national sovereignty*, which emphasizes a link between sovereign authority and a defined population.²⁰ The two types of sovereignty correspond to two different principles of legitimacy of states as independent entities. State sovereignty emphasizes the integrity of borders, while national sovereignty is based on the claim (right) of nations to self-determination, and the belief that national solidarity (national sentiment) serves as a valid (and sole) criterion in defining the nation.²¹

The international context in which the states of Central and Eastern Europe emerged at the beginning of the 1990s was thus defined by an *ideological convergence, in which democratic ideas had no competitor*. Moreover, it provided a normative standard, achievement of which was supported by the West by means of institutional arrangements. The international community (its dominant players) also *accepted national sovereignty as the source of legitimacy for state authority*. In my opinion, this is a very problematic combination, and raises many problems for the ruling elites of the newly independent states, as well as their populations.

Reshaping the State in Central and Eastern Europe after 1989.

In the following I will refer mostly to political strategies of state-building and nation-building and I will not cover the economic and social issues related to the problem of stateness²² unless they relate to national policies and international relations.

An analytical distinction is necessary between states that formed part of the external Soviet empire, but nonetheless existed legally as sovereign states, and the newly independent states that emerged from the fall of the communist multinational federations. In the first group I would place Bulgaria, Hungary, Poland, and Romania, but also the Czech Republic and Slovakia, though explanation and understanding of the Slovak nationalism that led to the separation of these states is similar to that of the countries in the latter group which includes: Belarus, Estonia, Latvia, Lithuania, Moldova, Ukraine and Russia, and the countries of the former Yugoslavia, Bosnia and Herzegovina, Croatia, Macedonia, Slovenia, Serbia and Montenegro.

The states of the first group experienced a sequence of economic, social, ideological and political changes that culminated in removal of the communist leadership and a change of political regime. Poland was the first country to engage in such a “great transformation”.

Case study of Poland. Certain features distinguish Poland from the rest of the countries in its group. Firstly, it was the only country in which communism had no internal legitimacy whatsoever and which could rightly claim that communism had been imposed from outside by force.²³ Secondly, nationalization of agriculture had been avoided, even by the Stalinist leaders

of the forties, and Gomulka had consistently rejected forced collectivization as part of his "Polish road to socialism". Thus, privately owned farms represented more than 70% of Poland's agricultural holdings at all times during the communist regime, constituting islands of private sociability. Thirdly, the Catholic Church served as a factor of social coagulation and often as mediator between society and the communist state.²⁴ All of these influenced the phenomenon of mass mobilization and self-organization of civil society in the 1980s, firstly around the Solidarity workers union, and then around other interests and social groups.

But as Linz and Stepan have emphatically shown, Poland's early transition took its toll.²⁵ Both Solidarity and the party militaries overestimated the power of the communist government. Moreover, Solidarity's goals were of a limited nature: they wanted legal recognition and participation in the elections. Thus Solidarity's victory was crippled by the partially free nature of the elections: only 35% of the seats in the *Sejm*, the only chamber of Poland's Parliament at the time, were open to free and competitive elections. More importantly, the results of the Polish Round Table arrived at a couple of problematic compromises as a result of struggles between the various parties to maximize their chances of political survival and success. They concerned, above all, the institutional arrangement of the Polish political system. A Senate was set up, whose seats would be open to free competition, so as to satisfy the demands of Solidarity, but this was balanced by the setting up of a strong presidency, which the communists rightfully believed they would take control of. Thus, the semi-presidential formula adopted and further adapted by Poland, combined with the "anti-politics" style of governing of President Lech Wałęsa, contributed to severe constitutional and intra-governmental conflicts, which seriously slowed the democratic consolidation of Poland.

Transition in Poland was soon followed by similar events in Hungary. However, unlike its Polish counterpart, the democratic opposition in Hungary had managed to organize itself and institutionalize before negotiations with the communists started. The discussion framework was one in which the opposition negotiated from equal positions with the communist hard-liners and reformist positions. Moreover, the organizations of the radical opposition refused all compromise with the reform communists and succeeded in imposing a referendum on the several issues debated, including the election date and procedure for the President. This victory represented more than simple point scoring in the negotiations. It won time from the democratic opposition to penetrate civil society and mobilize voters in their favor. It also produced a highly stable

institutional arrangement and a parliamentary regime of German inspiration.

Romania also chose a semi-presidential formula as an outcome of its blurred transfer of power. According to the declaration by the National Salvation Front on the afternoon of December 22, 1989, which had the status of a constitutional document, all structures of the communist regime were to be dismantled. This included the institution of the Presidency, created by Nicolae Ceaușescu in his endeavor to increase his domination. His installation as president was accompanied by a ceremony reminiscent of a royal crowning. However, the Council of the National Salvation Front (CNSF), acting as both executive and legislative, acknowledged (non-elected) Ion Iliescu as its president. Moreover, in its Decree of December 27, 1989, CNSF overstepped the authority of provisional power (as well as the provisions of the declaration-program of December 22 and the very purpose of the decree, which was concerned with the organization and operation of CNSF and its territorial offices) stating in article 2 that “the form of government of the country is a republic”.²⁶ The republican form of government and the office of the President represented an important bone of contention on the Romanian political scene until the general elections of 1992 and in part accounted for a fragmented, ineffective elite.²⁷

Though *parliamentarism* was the norm in post Second World War continuous democracies, only three of the new democracies of Central and Eastern Europe chose a pure parliamentary system (Hungary, Czech Republic, and Slovakia). In this institutional arrangement an elected president with relatively important *de jure* and *de facto* powers co-exists with a prime minister that has the vote of confidence of an elected parliament. As has been shown, this outcome is, on the one hand, symptomatic of the power struggles between old and new forces within states, as interests and ideologies collided openly or behind closed doors in clashes and negotiations. On the other hand, it is the inheritance of the former Soviet model, in which the figure of the president as the “father” of the state left a strong impression.

The political elites of the newly independent states’ also keep pace with another complex agenda. Apart from the tasks of establishing democratic institutional arrangements and the framework of economic reform that would lead to a free and competitive market, they also had to attend to other urgent tasks (whether real or perceived). Firstly, they had to find the grounds for asserting and supporting their state’s

independence. Secondly, most attempted to achieve maximal territorial statehood by using historic possession, or demographic or legal arguments. And thirdly, they needed to define their citizenry and who was entitled to membership of the polity since the absolute definition of the nations in whose names they were being (re)set was at stake.

Nationality policies in late USSR. All students of post-communist nationalism acknowledge that the legacy of the communist institutions and policies, together with several other factors, was an important cause of the upsurge in nationalist sentiment and action after 1989. The federal form imagined by Lenin, in opposition to Stalin's idea of a union of autonomous republics under Russian domination, was that of a union of republics equal in status within a Soviet federation which would allow the right to secession and would give the major nationalities considerable cultural and administrative autonomy. Thus the titular nationalities were collectively enshrined in their own geographically defined union republics. Following a first move towards "nativization"²⁸ by Lenin who feared the "Great Russian chauvinism", the mid-1930s saw the beginning of a process of Russification. Rebuking Stalin's policies in 1956 at the 20th Party Congress, Khrushchev committed the Party to the flourishing of nations. However, he also envisaged a policy of their "coming together" until a final "merger" was achieved. These policies went on unchanged for the next 25 years and favored the "creation" or institutionalization of nations (nationalities).²⁹

Nationalities such as Belarusian or Moldovan that did not have significant experience of independent statehood – neither could unambiguously claim a certain territory as the homeland of their nation, though for Moldovans there existed a Romanian homeland which they had been part of between the two World Wars – were "granted" union republics whose borders were drawn somewhat arbitrarily due to certain political interests. The framework of these republics constituted the arena in which, whether genuinely or artificially, a Belarusian and a Moldovan nations were (re)created.

At the same time, nationality did not depend on place of residence, but was allocated according to cultural/ethnicist principles. Thus, a significant ethnic/national personal awareness became institutionalized through passports, identity documents, and various other bureaucratic forms that stated the nationality of the bearer. "The Soviet institutions of territorial nationhood and personal nationality comprised a pervasive system of social accounting, an organizing scheme of social accounting, an interpretative grid for public discussion, a set of boundary-markers, a legitimate form for public and private identities, and, when political space expanded under Gorbachev, a ready-made template for claims to

sovereignty.”³⁰ The Soviet regime institutionalized both a territorial-political and a personal-ethnocultural model of nationhood, resulting in expectations of “ownership” on the part of the successor states.

The argument can be reproduced in similar manner for the federal republics of former Yugoslavia.

The preambles to the Constitutions of these states (and their declarations of independence), intended as founding acts in both senses of the word, as documents and as events, inform us of the importance and urgency of asserting valid grounds for the existence and sovereignty of the newly independent states.³¹ Nation is constitutive and the result of the existence of the state. History and historiography constitute, as expected, the symbolic battleground of and for the state.

In the preambles to the Constitutions, as well as the public political and cultural discourses, and in the substance of other state policies, *the evidence and elements of the historical existence and continuity of a nation state represent the most salient and powerful arguments.* The Constitution of Belarus talks of the “centuries-long history of development of Belarusian statehood”; the Czech Constitution of “ancient statehood of the Czech Crown’s Lands and the Czechoslovak State”; Estonia of a “state which is established by the inextinguishable right of the Estonian people to national self-determination which was proclaimed on February 24, 1918”; Lithuania of “having established the State of Lithuania many centuries ago, [...] having for centuries defended its freedom and independence, having preserved its spirit, native language, writing, and customs”; Macedonia of “the traditions of statehood and legality of the Krushevo Republic and the historic decisions of the Anti-Fascist Assembly of the People’s Liberation of Macedonia in the referendum of September 8, 1991, as well as the historical fact that Macedonia is established as a national state of the Macedonian people” after mentioning “their struggle over centuries for national and social freedom as well as the creation of their own state”; the Moldovan Constitution says that “while growing into a nation, the Moldovan people has given strong evidence of historical and ethnic continuity to its statehood”; the Polish Constitution recalls the “best traditions of the First and the Second Republic”; the Slovak Constitution mentions the “political and cultural heritage of our forebears, and the centuries of experience of the struggle for national existence and our own statehood, in the sense of the spiritual heritage of Cyril and Methodius and the historical legacy of the Great Moravian Empire”; and

the Ukrainian Constitution talks of the “centuries-old history of Ukrainian state-building and the right to self-determination realized by the Ukrainian nation”.

Case study of Estonia. Estonia’s road to independence started with public protests about an ecological issue: the intention of the central government to start a phosphorus-mining project. This developed into pressure for economic reform that took the shape of a plan for economic autonomy for Estonia proposed by a group of four Estonian liberals. The setting up of the Estonian Popular Front was the first institutional form of the mobilization that was to follow in 1988 and was effective in opposing Gorbachev’s attempt to change the Soviet Union’s Constitution. The Estonian Supreme Soviet declared the republic’s right to sovereignty (November 16, 1988) and called for a new union treaty. This was the beginning of a struggle with the authorities in Moscow for political sovereignty and economic autonomy. Estonia, in alliance with the other two Baltic republics, played the history card as the main means of political struggle. They invoked the Nazi-Soviet Non-aggression Pact, and were helped by the results of a commission set up to study its provisions, which revealed the existence of secret protocols for the dividing up of Poland and the Baltic states. The struggle was radicalized after the organization of the human-chain from Tallinn to Vilnius through the setting up of Estonian Citizens Committees, which maintained that the country had been illegally occupied and annexed by the Soviet Union. Through this they asserted that Estonian statehood had never ceased during the Soviet period and because the Estonian republic, which was established in 1918 and became independent in 1920, still enjoyed international recognition, it would only legitimate Soviet authority by entering into negotiations on its secession. Estonia continued with the concept of the continuing legal authority of the prewar republic, appealing to international law in order to secure it from any attempts to keep it in the union.

Estonia’s strategy to assert the country’s legal continuity as a state was also reflected in its subsequent citizenship policies. The prewar state’s citizens and their descendants were granted Estonian citizenship, while Soviet immigrants living in Estonia and their descendants were not automatically made citizens of the restored state because they had settled or been born in Estonia under Soviet rule. They would have to undergo a process of naturalization based on language and residence criteria. The conditions set in the naturalization law, including a one-year waiting period after application, had important political consequences as these non-citizens, about 500,000 of a 1.4 million population, could not vote in the 1992 general elections. This was followed by the 1993 Law on Aliens, meant to regulate the status of non-citizens and which required that these

persons obtain a residence permit that needed to be renewed annually and was not warranted. Thus, people who were born or had lived for most of their lives on Estonian territory suddenly found themselves to be aliens with a very insecure status in what they used to consider their country. Out of fear that their chances of obtaining residence permits and subsequent citizenship would be affected, many did not apply for Russian citizenship either, even though this was offered to all former citizens of the USSR. The law raised objections from key international supporters of Estonia, including the US, the Scandinavian states and the EU.

Estonia's emphasis on the legal continuity of the prewar Estonian state also complicated the process whereby it negotiated the bilateral treaty with Russia (a basic requirement of EU accession), settling land and sea borders. Negotiations started in April 1992 but revealed conflicting positions in respect of Tartu Peace Treaty of February 2, 1920. Estonia wanted full recognition of the treaty, as a valid and constitutive document in its relations with Russia, while Russia considered it to be out of date. After two years stalemate, the Estonian Prime Minister Tarand agreed to give up the Estonian territorial claims based on the Tartu Treaty borders in favor of the Soviet settled borders and whereby Estonia lost the equivalent of 5% of its territory. This comprised areas around the city of Ivangorod, east of Narva and Pechory, cutting in two the territory of the kindred Setu people. In exchange, Estonia requested recognition of the Tartu treaty as a basic document of continuity of the Estonian state and the Russian agreement with the corresponding formulation in the text of the border treaty. After a further couple of years during which the Estonian party tried to assess what was more important to it – recognition of the treaty, or a border treaty and, by extension, whether Russia's non-recognition of the treaty would affect Estonia's legal continuity as a state in itself – Estonia and Russia reached an agreement in 1999.

Nation Building in Central and Eastern Europe after 1989.

Many countries of the former communist bloc followed nationalist politics in the construction and consolidation of their (national) states. The nationalism of the post-communist newly independent states took the form of *remedial political action*.³² This is a polity-based, nation-shaping (or nation-promoting) nationalism that aims to nationalize an existing polity. Most of their new political elites denounced the organization and policies within the multi-national federations as a sort of national and political domination, colonialism or, as in the case of Estonia for example, outright foreign occupation.

The main elements of this form of nationalism are: the “existence” of a core nation/nationality defined in ethno-cultural terms and distinct from the citizenry/population/permanent residents; the idea that the core nation legitimately “owns” the polity, which exists of and for the core nation; the perception that the core nation is not flourishing, that its specific interests are not adequately realized or expressed such that specific action is required in a variety of settings and domains to promote its language, traditions, cultural inheritance, demographic dominance, economic welfare and political hegemony; the justification of these policies is based on the need to remedy or compensate for previous discrimination against the nation before it disposed of its own state to safeguard and promote its interests; mobilization on the basis of these ideas in various settings in an effort to shape the policies and practices of the state and other organizations, and the adoption of policies according to these lines.³³

These attempts at state building via nation building or nationalizing of the state are objectified in a particular body of legislation.

Firstly, the constitutive law of the state, the Constitution, defines the character and nature of the state and citizenry. Romania is one of the most outspoken countries in this respect, as article 1 of the Constitution states in saying that Romania is a “national, sovereign and independent state, unitary and indivisible.” Romania in fact is the only state that asserts in her Constitution the national character of the state. Moreover, in the parliamentary debates on the changes to the Constitution of June 2003, the amendment proposed by the Democratic Alliance of Hungarians in Romania that this provision be removed was rejected by 238 votes to 23 (representing the size of the Alliance’s representation in the Parliament). The wording of the Constitution is symptomatic of the importance given by legislators to nation building, as part of state building, and the accepted boundaries of citizenry and nation.³⁴ Most of these countries have vested sovereignty in the people, in many cases implicitly conceived as an ethnic nation, though some are more careful to employ more objective and technical terms by pronouncing citizens the source of power and repository of sovereignty.

Of course, citizenship laws take on specific shapes according to particular concepts of nation and consequent policies. Citizenship represents one of the best articulated institutions that regulates difference and is central to the definition of nation and national identity. It functions as a mechanism of closure,³⁵ as a club that grants members access to certain benefits and a share in state institutions. There is a link between

citizenship and nation since members of a nation are usually also entitled to citizenship. However, citizenship is most often a territorial attribute, whereby all those living, working and paying taxes within the territory of a state should also be entitled to obtain citizenship of that state and all the rights and duties associated with it. Given the lack of congruence between the borders of a nation and the territorial borders of the state, design of the citizenship policies usually favors one principle over the other, resulting in the two ideal types of a civic, political, territorial, assimilationist nation, that of and an ethnic, cultural, descent-based, differentialist nation.³⁶

Another type of legislation on nation building policies is concerned with the regulation of ethnic and national minority status and languages, education and local administration, political representation of national and ethnic minorities and related factors.

Case study of Slovenia. In keeping with the tradition of the socialist republic and its history, the Slovenian Constitution grants special attention and privileges to two ethnic groups, the Italians and Hungarians, which represent less than 1% of the total population. Deriving from their "autochthonous" status,³⁷ they are granted extensive special rights, recognized in the Constitution and several other legal acts that regulate issues of cultural survival of ethnic minority groups and their equal opportunities in the society. They include, among others, mother-tongue education up to secondary level, the status of second official language in some municipalities, the right to use national symbols and bilingual signs in their "historical area", the use of bilingual official documents, mass media programs in Italian and Hungarian, guaranteed representation in the representative bodies of some local municipalities, and direct representation in Parliament, with the right to veto matters that affect their ethnic communities.³⁸

The rest, approximately 90% of the minority population, are considered "not permanently settled" and thus not recognized as ethnic minorities. Members of these ethnic groups, mostly internal migrants from other Yugoslav republics of the former federation, nevertheless have the right to "freely identify with their national grouping or ethnic community, to foster and give expression to their culture and to use their own language and script".³⁹ In this respect, despite acquiring citizenship, their status is similar to that of the recent immigrants. They have the right to study their mother tongue and national culture in elementary schools. The education laws (the Pre-school Institutions Act, the Elementary School Act, the Gymnasium Act) state that the language of instruction from pre-school to gymnasium

level is Slovenian (or Italian or Hungarian in some districts), and do not grant provisions for instruction in any other language.

These policies do not contradict the principles of the democratic nation state, as all citizens are granted the same rights and opportunities, while special rights are provided for selected marginal groups. At the same time, this arrangement has not in any way challenged the “national” character of the Slovenian state.

Bilateral treaties and personal unions between states, the ratification of certain international accords and conventions, and other agreements between states, also disclose the approach of the political elite to the system of states and organization of political space, the conception of their state and nation.⁴⁰ This brings us to an interesting body of legislation that emerged after 1989. Alongside growing phenomena of migration and globalization, institutions of transnational authority and double/multiple citizenship, international regimes of law and the individual or group rights grounded in them or in one’s own person, this legislation challenges the modern norms of the system of states. It is concerned with the type of relation that a state wishes to create and maintain with its co-ethnics abroad.

What Nation for What State? Relating Kin-States to Co-Ethnics Abroad.

As I have argued earlier, the dismantling of the communist system of 1989 and the collapse of the supranational authority of Moscow gave way to state redefinition and state building, and most Central and Eastern European states were refashioned as national states in accordance with archetypal “modern” patterns. It is of great importance for the internal consolidation of a state and for the shaping of its national or nationalizing policies if a state’s national minorities, especially the numerically significant, politically mobilized and/or culturally homogeneous, have an external national homeland. The relations between a minority and its external national homeland are always subject to concern and interpretation since these states naturally envisage maximalist territorial and national projects and because their common but contested history will have seen more than one struggle in this respect. Of course, the policies and actions undertaken by these states depend on the state of

play in the democratic game, i.e., the political elite in power at any given moment and its definition of the situation. But the most important factor that increases the tensions that arise between national states that host the co-ethnic minorities of the other state is the discrepancy between the economic situations of the countries and between the perceived or objective evaluation of life-chances offered to the citizens of those states. Both minorities and the kin-state become disgruntled with a host-state that is economically worse off by comparison, and consequently many social and political processes are ethnicized, while the former look for remedial policies.

Most post-communist countries conceived and achieved the revolutions of 1989-1992 as the final episode in a “centuries old struggle for self-determination and dream of independent statehood for the nation”.⁴¹ The path to achieving nationhood and statehood was not a copy of Western experience as Central and Eastern European states were established after the naturalization of the idea of the ethno-cultural nation and were set up to fulfill statehood for particular ethno-cultural nations. Rather than carving out a nation from a population living on demarcated territory, the nation was created as a state and given a territory on historic and/or demographic grounds. Consequently, the borders of the state do not match the borders of the nation. This incongruity between state and nation applies geographically as much as conceptually. Thus there are large groups living inside the borders of CEE states that believe they belong to nations other than the titular nation, and equally there are members of the titular nation living outside that nation, usually in neighboring states or states in the region. War and the communist experience also produced important Western Diasporas for these countries.⁴² Due to the terms of the treaties which enabled inter-state territorial transfers, the policies of the communist regimes to withdraw the citizenship of emigrants, and the requirements of naturalization in immigration states, members of CEE nations abroad do not generally hold the citizenship of their kin-states.

This incongruity is reflected at the level of internal and external national policies of CEE states. In terms of internal arrangements, the modern idea of citizenship is upheld, based on the idea that formally equal citizenship rights are the only basis for treatment of individuals by the state. This is usually used by titular majorities against claims of collective rights and facilities by national minorities. In their post-communist citizenship laws, CEE states have generally asserted the primacy of the titular/majority nation by denying citizenship based purely

on birth on their territory, requiring evidence of cultural assimilation before granting citizenship by naturalization (language proficiency, proof of loyalty towards people and country, knowledge of history and legislation, etc.). Estonia and Latvia, for example, sharply redrew the boundaries of the national political community by refusing citizenship based on the principle of personal status to long-time residents or persons born in the country but who did not belong to the titular nation.

On the other hand, these norms are very lax when it comes to members of the ethno-cultural nation. People seen as members of the nation are favored in the naturalization process (e.g., not required to give up another citizenship or the setting of shorter residence requirements, or none at all). In certain states, citizenship is granted to a person even if he or his ancestors had never held citizenship, thereby introducing the national criterion as a favoring or conditioning factor. In some cases, membership of the nation is sufficient in order to obtain citizenship.⁴³

Externally however, CEE states have sought to create and preserve some sort of relationship with their co-ethnics abroad. The assertion of identity as a kin-state is part of the process of self-definition in which CEE states have been engaged following the collapse of the communist system. This role of the kin-state has been noted by European bodies. For example, the Report of the Committee for Migration, Refugees and Demography of the Parliament Assembly of the Council of Europe, *Links between Europeans living abroad and their country of origin*, 1999. However, the report often confuses state policies towards expatriate citizens and policies concerning non-citizen co-ethnics abroad. This is a symptom of the lack of legal formalization of these types of relationships and of the innovation of the CEE nationalizing states in their policies towards their external minorities. In contrast to the internal aspect of state and nation building, the policies towards external minorities go against modern norms of statehood as they imply that states may only legitimately have a relationship with their citizens or residents, and individual national identities must coincide with citizenship.

The need to maintain a relationship with the co-ethnics abroad was typically enshrined in the new Constitutions of the CEE states.⁴⁴ These provisions that create a link with co-ethnics abroad *were wholly absent from CEE communist-era constitutions*. Whatever the form of nationalism during the communist period, no state went beyond domestic policy in this respect. Expressing interest in co-ethnics abroad remained taboo

(excepting Hungary after 1987, which expressed concern over Ceaușescu's systematization policy).

States may also offer citizenship without requiring individuals to take up residence. This institutionalizes the relationship between a kin-state and its co-ethnics without necessarily encouraging immigration, though it does facilitate it. This is a natural occurrence in post-imperialist, post-federative situations, or to those who were arbitrarily deprived of their kin-state citizenship after emigration during the communist era.⁴⁵

Finally, many countries designed kin-state policies to regulate the form and content of the relationship the state will maintain with its national minorities abroad. They represent a way of institutionalizing a relationship with co-ethnics abroad, avoiding the problems of double citizenship, but giving expression to the idea that they are part of the nation for which there exists a state. The fact that *these policies are alternatives to granting citizenship* was made clear by legislators that stated they cannot regard them "simply as tourists" when they are in their kin-states (PM Victor Orbán of Hungary) or foreign visitors (senator Sagatowska of Poland: "Poles travelling to their mother country ought to be treated as Polish citizens right on the border, not as foreign visitors which they experience now").⁴⁶ The intention was to create a *status*, which was more than that of a tourist, but less than a citizen.

The relationship between a kin-state and its external national minority formulates different principles and norms than that of modern statehood. Territoriality and citizenship are not seen as exclusive ways of organizing political space and political phenomena. This relationship challenges the sovereignty of the host-state, its exclusive relationship to its citizenry, the assumption of a singular loyalty and an identity relationship between citizens and the state. The kin-state role is not recognized in international law, and the problem of kin-states and ethnic/national minorities is seen as one of international security. However, the problématique of the kin-state is, in fact, one of organization of political space and political phenomena. Theoretically, it can be also understood as a challenge to the established, modern system of states, the conceptualization of international political order based on territoriality and sovereignty.

Case study of Hungary. The Hungarian kin-state law was the most innovative piece of legislation of this type and subject to important dispute due to its particular context and what was at stake for the parties involved. The law bears the official name of "*Act on Hungarians Living in Neighboring*

Countries", began to be debated in the Hungarian Parliament April 19, 2001, and was adopted June 19, 2001.

The main role in the process was played by the *Hungarian Standing Conference* (MAÉRT), the first legally regulated body to bring together members of the Hungarian government, the parliamentarian parties, the Western Diaspora and the organizations of Hungarian communities in neighboring countries that are represented in the local or national legislatures of their host-countries. It emerged as a result of the 1996 Hungarian-Hungarian summit held under the socialist-liberal administration, though set up after the right-wing Orbán government took office, and was granted a consultative role in legislation affecting Hungarians abroad. The previous government (1994-8) had signed bilateral treaties with Slovakia in 1995 and Romania in 1996 and refused to grant treaty veto rights over to its minorities in these countries. It also gave priority to the interests of the Hungarian state and to Western powers in the interest of good relations in the region over minority claims for greater rights in host-states and more influence in Hungary. The Fidesz right-wing government (1998-2002), whose prime-minister Orbán had claimed to be prime-minister not only of 10 million Hungarian citizens, but of 15 million Hungarians, allowed the external minorities to take initiatives with respect to elaboration of policies regarding the relations of Hungary with its minorities. According to the wording of the law, the Hungarian government acted at MAÉRT's request. The law was discussed and drafted in 6 MAÉRT working committees made up of members of the external minorities and Hungarian officials.

The laws heeds article 6, paragraph 3, of the Hungarian Constitution which states that "The Republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its borders and shall promote and foster their relations with Hungary". It grants facilities to persons belonging to Hungarian minorities in neighboring countries, with the exception of Austria. Various facilities are provided in Hungary (public transport, access to cultural institutions, work permits for limited periods, financial support for students studying and teachers teaching in the Hungarian language) and in the host states (financial support based on individual applications for families with two or more children, support for Hungarian organizations). The law stipulates that beneficiaries of the law, members of the Hungarian minority, will receive certificates of national minority status with photograph, and that their non-Hungarian spouses and children are entitled to certificates of their status as dependents of a Hungarian national, also with photograph, and valid for 5 years. The granting procedure for these certificates involves a legally established organization in the host-country that is representative of the Hungarian community and which provides recommendations for the applicants to the Hungarian authorities.

The law has been in force since January 1, 2002, following the provisions of the Report of the Venice Commission of October 19-20, 2001, and the Memorandum of Understanding signed with Romania on December 22, 2001.

Hungary does not see the status law and MAÉRT, and the political space and community that they create, as a replacement for the present state system and borders. On the contrary, bilateral relations for the guaranteeing of borders (SK 1995, RO 1996) and the multidimensional relations established with its neighbors formed the basis from which Hungary went on to formulate the status law. This was partially because it felt these did not achieve the expected results, and partially because the existence of such guarantees and relations represented solid ground on which other types of relationships with co-ethnics abroad could be built. It assumes that individuals may hold multiple identities and whose needs are fulfilled by different institutional arrangements and systems. The argument is that however much Romania may do for the rights of its minorities, the cultural needs of Hungarians can ultimately be fulfilled only by the state of Hungary.

Hungary appealed to European ideas to promote its law. But the European Union brings countries and peoples together through a union of states and creates institutions to promote minority identity and territory only within the framework of agreements between states and only for member states. Hungary's concepts of multiple identities, a community of communities and a loss of significance of territorial borders go far beyond the framework of the European Union, whose political framework, in fact, agrees with modern norms of statehood. The Venice Commission and the OSCE High Commissioner for National Minorities categorically support a framework based on bilateral consensus between the states. As for Romania and Slovakia, the most vocal critics of the law, Hungary's integrationism did not resemble European integration, but rather nineteenth century national projects. For Romania, Europe is the place where national distinctions are overcome through a culturally neutral identity, through a European citizenship which leaves the present state arrangements unchanged. In contrast, for Hungary, Europe is the place where national identity differences are protected and celebrated, where necessary through overcoming the territorial states in a community of communities. While Romania and Slovakia consider the role of kin-states to have been assumed by Hungary as a prelude to revisionist action, the innovative elements of Hungary as kin-state were, in fact, the result of its attempt to find alternatives to the inter-war revisionism.

Criticism of the law by European Union and the MSZP, the opposition Hungarian Socialist Party, was triggered by a fear of worsening bilateral relations between Hungary and neighboring states.

Romania argued that the law represented a unilateral move by the Hungarian government that violated the reciprocity and equality of the principles of states stated in the bilateral treaties. It also expressed concern about the extraterritorial effects of the law, which infringe on host-state sovereignty. Moreover, social and economic facilities would encourage individuals to assume Hungarian identity, an act which should result from an awareness and consciousness of belonging to a given national community and not due to material advantages.⁴⁷ Social and economic discrimination on ethnic grounds by Romania citizens was also considered a likely consequence of the law. The kin-state can only seek and obtain legal guarantees for its co-ethnics through bilateral treaties, while the protection and rights of minorities are the responsibilities of the host-state in accordance with international provisions and institutional frameworks. The kin-state has neither the right nor the obligation to intervene outside bilateral treaties.⁴⁸

The Venice Commission took a step forward in terms of international recognition of the kin-state role by admitting that kin-states may create individualized rights for their co-ethnics abroad under certain conditions and within set limits. However, while it agreed that these privileges and facilities be accorded in the kin-state, it questioned whether they should also be accorded in the host state and categorically prohibited the according of administrative, quasi-official functions to NGOs of external minorities that are registered in another state. It also set the requirement that the criteria for granting rights on ethnic grounds be set by law. The Commission was concerned that the kin-state would extend the granting of facilities and benefits to such an extent that they would cease to have any connection with the idea of preserving Hungarian cultural identity (Art. 10 of the law), going beyond help for cohesion and support of the Hungarian nation, favoring professional groups or functional communities.⁴⁹

Romania criticized Hungary's claim to be defending the rights of Hungarian minorities that, as Hungary pointed out, were affected by deficiencies in the treatment Romania applies to its minorities. Romania explained that Hungary's failure to enforce the law bilaterally meant that it was deprived of the opportunity to negotiate an extension of similar rights to the Romanian minority in Hungary. On the other hand, Romania expressed no complaint about the similar kin-state policies of other states, such as Croatia and Slovakia, towards national minorities in Romania. At the same time, Romania assumed a strong kin-state role in respect of Romanians in Moldova, arguing that Romanians (Moldovans) in Moldova are not a minority, but the majority. This differential behavior and double

standards by Romania can be explained in terms of the factors that also account for the variability and inconsistency in kin-state laws themselves: the volume and level of political assertiveness of the minorities, historical events and associated symbolism, historical disagreements over territory, political and economic resources, other bilateral aspects of the two states, and constraints and incentives of the international community. The Hungarian law can be considered the product of economic, demographic and historical circumstances. Hungary is a relatively homogeneous state subject to no territorial claims or threats, with small and assimilated minorities and large and culturally important external minorities. Its economic situation and political position is significantly better than that of the states that host its external minorities. It is also faced with a demographic shortage due to decreases in population. Hungary, on the other hand, has argued that the law treats external minorities in a way it would gladly accept from host-states of national minorities in Hungary.

Hungarian policy towards its co-ethnics abroad implies ideas of diminished or shared sovereignty, multiple identities, and relationships between states and individuals that are not based on citizenship, and it is with precisely these words that Hungary defends its policies as kin-state. In many respects they are different from other incipient forms of post-modern citizenship, such as the policies regarding resident non-citizens and non-resident citizens – the latter are motivated by the need to accommodate the rights of individuals, in particular migrants, while the objects of kin-state policies are cultural collectivities and the idea of nation. Domestic policies that infringe upon the norms of equality that are given by citizenship are accepted as minority rights regimes. As long as minority rights are granted by territorial states and do not involve the kin-state, they can be part of the modern conception of statehood and are, in general, intended to help minorities benefit from all the rights of citizenship due to them. The Venice Commission consecrated this fact by asserting territorial sovereignty as one of the principles that conditions adoption of any kin-state legislation.

Conclusion. State Building in Eastern Europe: Struggling Behind and Ahead.

All the countries of the former communist bloc wrote new Constitutions as a result of the major changes of 1989 and 1991.⁵⁰ However, the revolutions that led to the dismantling of the communist system were seen as more than the end to illegitimate, violent, repressive, and economically bankrupt regimes. For the newly independent states, as for the satellite states, they were also movements of liberation. Moreover,

this liberation was seen as the final stage in a century-long struggle for national self-determination, statehood and independence.

The political context of the time, shaped by the interpretations and interests of the big powers, favored the flourishing of nations and acceptance of national independent statehood. The Cold War had been less a war over principles of state legitimacy, whether internal or international, as previously stated by the United Nations Charter – the Charter asserted the rights of self-determination of peoples (in the sense that everyone as an individual has a right to his own government and to participate in that government) but not of nations, and established the priority of the integrity of settled state borders over the integrity of national groups. The Cold War was continued in order to legitimize certain political and economic ideologies. It allowed expansion of the Soviet state at the expense of the statehood of several nationalities, as well as the domination by force of its external empire (best objectified in the Brezhnev doctrine). The end of the Cold War was brought about by discontent with the Realpolitik (inviolability of states) and its consequences: abuses of populations by their governments, internal colonialism/imperialism. Border changes and concessions towards greater autonomy for domestic ethnic groups came to be seen as acceptable, normal, or even desirable. The changed security environment accounts as much for this as does the loss of (perceived) legitimacy by the respective states (towards their populations and the international community).

Thus post-communist state building took place within a modern framework of statehood and international relations and according to the modern principles of territoriality and sovereignty. Moreover, they were established as states of and for a nation and state building was also conceived of as vigorous nation building. Citizenship policies, which have constitutive value as acts, whereby the body politic of the state is established and which are expressive of the nature of the state, followed the national principle and all related legislation was shaped according to remedial and assertive nationalism. While reinforcing the modern principles of statehood and organization of political phenomena through their struggle to assert statehood and sovereignty and integration into Western security, economic and political structures, CEE states also attempted to go beyond these principles. The unique chance of reformulating the nature and value of their nation and state was seized by most of post-communist elites. They all pursued maximalist territorial and national projects. This approach was a major factor in settling border

agreements and establishing the borders of the nation. If, in their claims to historical territorial restoration, states appeared to be behind the times, they were nonetheless ahead of Western institutional and political arrangements in the conception implicit and explicit in their national policies, especially in what resulted from their position and policies towards their co-national (co-ethnics) abroad. The liberal and all inclusive citizenship laws of Romania, for example, towards its co-ethnics living in other countries clearly went beyond territorial borders and sovereignty of states principles.⁵¹ The Hungarian kin-state law also advanced concepts of shared sovereignty, a community of communities versus a union of sovereign states, which infringed the sovereignty of neighboring states in its provisions that applied on their territory.

State building and nation building in CEE Europe are also part of a larger process of re-institutionalization and re-organization of political space and phenomena, and their innovative concepts and legislation are constitutive of these processes.

ANNEX: Constitution Preambles

Albania

[Text approved by referendum on 22 November 1998, and promulgated on 28 November 1998]

We, the people of Albania, proud and aware of our history, with responsibility for the future, and with faith in God and/or other universal values,

with determination to build a social and democratic state based on the rule of law, and to guarantee the fundamental human rights and freedoms, with a spirit of religious coexistence and tolerance,

with a pledge to protect human dignity and personhood, as well as for the prosperity of the whole nation, for peace, well-being, culture and social solidarity,

with the centuries-old aspiration of the Albanian people for national identity and unity,

with a deep conviction that justice, peace, harmony and cooperation between nations are among the highest values of humanity,

We establish this Constitution:

Belarus

[Adopted at the republican referendum of 24 November 1996]

We, the People of the Republic of Belarus (of Belarus),
proceeding from the assumption of responsibility for the present and future
of Belarus,
recognizing ourselves as a full-fledged subject of the international
community and conforming our adherence to values common to all
mankind,
founding ourselves on our inalienable right to self-determination, supported
by the centuries-long history of development of Belarusian state-hood,
striving to assert the rights and freedoms of every citizen of the Republic
of Belarus,
desiring to maintain civic concord, stable foundations of government by
the people and a state based on the rule of law,
hereby adopt and enact this Constitution as the Fundamental Law of the
Republic of Belarus.

Bosnia and Herzegovina

[Adopted on 1 December 1995]

Based on respect for human dignity, liberty, and equality,
Dedicated to peace, justice, tolerance, and reconciliation,
Convinced that democratic governmental institutions and fair procedures
best produce peaceful relations within a pluralist society,
Desiring to promote the general welfare and economic growth through
the protection of private property and the promotion of a market economy,
Guided by the Purposes and Principles of the Charter of the United Nations,
Committed to the sovereignty, territorial integrity, and political
independence of Bosnia and Herzegovina in accordance with
international law,
Determined to ensure full respect for international humanitarian law,
Inspired by the Universal Declaration of Human Rights, the International
Covenants on Civil and Political Rights and on Economic, Social and
Cultural Rights, and the Declaration on the Rights of Persons Belonging
to National or Ethnic, Religious and Linguistic Minorities, as well as
other human rights instruments,

Recalling the Basic Principles agreed in Geneva on 8 September 1995, and in New York on 26 September 1995, Bosniacs, Croats, and Serbs, as constituent peoples (along with Others), and citizens of Bosnia and Herzegovina hereby determine that the Constitution of Bosnia and Herzegovina is as follows.

Bulgaria

[Adopted on 12 July 1991]

We, the Members of the Seventh Grand National Assembly, guided by our desire to express the will of the people of Bulgaria, by pledging our loyalty to the universal human values of liberty, peace, humanism, equality, justice and tolerance; by elevating as the uppermost principle the rights, dignity and security of the individual; in awareness of our irrevocable duty to guard the national and state integrity of Bulgaria, hereby promulgate our resolve to create a democratic, law-governed and social state, by establishing this Constitution.

Croatia

[Adopted on December 1990]

The millennial national identity of the Croatian nation and the continuity of its statehood, confirmed by the course of its entire historical experience in various political forms and by the perpetuation and growth of state-building ideas based on the historical right to full sovereignty of the Croatian nation, manifested itself:

in the formation of Croatian principalities in the 7th century;

in the independent medieval state of Croatia founded in the 9th century;

in the Kingdom of Croats established in the 10th century;

in the preservation of the subjectivity of the Croatian state in the Croatian-Hungarian personal union;

in the autonomous and sovereign decision of the Croatian Parliament of 1527 to elect a king from the Habsburg dynasty;

in the autonomous and sovereign decision for the Croatian Parliament to sign the Pragmatic Sanction of 1712;

in the conclusions of the Croatian Parliament of 1848 regarding the restoration of the integrity of the Triune Kingdom of Croatia under the

power of the Vice-Roy (Ban) on the basis of the historical state and natural right of the Croatian nation;

in the Croatian-Hungarian Compromise of 1868 regulating the relations between the Kingdom of Dalmatia, Croatia and Slavonia and the Kingdom of Hungary, on the basis of the legal traditions of both states and the Pragmatic Sanction of 1712;

in the decision of the Croatian Parliament of 29 Oct 1918, to dissolve state relations between Croatia and Austria-Hungary, and the simultaneous affiliation of independent Croatia, invoking its historical and natural right as a nation, with the State of Slovenes, Croats, and Serbs, proclaimed in the former territory of the Habsburg Empire;

in the fact that the Croatian Parliament never sanctioned the decision passed by the National Council of the State of Slovenes, Croats and Serbs to unite with Serbia and Montenegro in the Kingdom of Serbs, Croats and Slovenes (1 December 1918), subsequently proclaimed the Kingdom of Yugoslavia (3 October 1929);

in the establishment of the Banovina of Croatia in 1939 by which Croatian state identity was restored in the Kingdom of Yugoslavia;

in laying the foundations of state sovereignty during World War Two, through decisions of the Anti-Fascist Council of the National Liberation of Croatia (1943), to oppose the proclamation of the Independent State of Croatia (1941), and subsequently in the Constitution of the People's Republic of Croatia (1947), and several subsequent constitutions of the Socialist Republic of Croatia (1963-1990).

At the historic turning-point marked by the rejection of the communist system and changes in the international order in Europe, the Croatian nation reaffirmed, in the first democratic elections (1990), by its freely expressed will, its millennial statehood and its resolution to establish the Republic of Croatia as a sovereign state.

Proceeding from the above presented historical facts and from the generally accepted principles in the modern world and the inalienable, indivisible, nontransferable and inexpendable right of the Croatian nation to self-determination and state sovereignty, including the inviolable right to secession and association, as the basic preconditions for peace and stability of the international order, the Republic of Croatia is hereby established as the national state of the Croatian people and a state of members of other nations and minorities who are its citizens: Serbs, Muslims, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews, and

others, who are guaranteed equality with citizens of Croatian nationality and the realization of ethnic rights in accordance with the democratic norms of the United Nations and countries of free world.

Respecting the will of the Croatian nation and all citizens, resolutely expressed at free elections, the Republic of Croatia is organized and shall develop as a sovereign and democratic state in which the equality of citizens and human freedoms and rights are guaranteed and ensured, and their economic and cultural progress and social welfare are promoted.

Czech Republic

[Adopted on 16 December 1992]

We, the citizens of the Czech Republic in Bohemia, Moravia, and Silesia, at the time of the renewal of an independent Czech state, being loyal to all good traditions of the ancient statehood of Czech Crown's Lands and the Czechoslovak State, resolved to build, protect and develop the Czech Republic in the spirit of the inviolable values of human dignity and freedom, as the home of equal and free citizens who are conscious of their duties towards others and their responsibility towards the whole, as a free and democratic state based on the respect for human rights and the principles of civic society, as part of the family of European and world democracies, resolved to jointly protect and develop the inherited natural and cultural, material and spiritual wealth, resolved to abide by all time-tried principles of a law-observing state, through our freely elected representatives, adopt this Constitution of the Czech Republic.

Estonia

[Adopted on 28 June 1992]

Unwavering in their faith and with an unswerving will to safeguard and develop a state which is established on the inextinguishable right of the Estonian people to national self-determination and which was proclaimed on February 24, 1918, which is founded on liberty, justice and law, which shall serve to protect internal and external peace and provide security for the social progress and general benefit of present and future generations, which shall guarantee the preservation of the Estonian nation and its culture throughout the ages, the Estonian people adopted, on the basis of

Article 1 of the Constitution which entered into force in 1938, by Referendum held on June 28, 1992 the following Constitution.

Hungary

[Adopted on 20 Aug 1949. Amended significantly in 1989, and 1997]

In order to facilitate a peaceful political transition to a constitutional state, establish a multi-party system, parliamentary democracy and a social market economy, the Parliament of the Republic of Hungary hereby establishes the following text as the Constitution of the Republic of Hungary, until the country's new Constitution is adopted.

Latvia

[Adopted on 15 Feb 1922. Readopted in 1990 through the independence referendum. Significantly amended in 1998.]

No preamble.

Lithuania

[Adopted on 25 Oct 1992]

The Lithuanian Nation

- having established the State of Lithuania many centuries ago,
 - having based its legal foundations on the Lithuanian Statutes and the Constitutions of the Republic of Lithuania,
 - having for centuries defended its freedom and independence,
 - having preserved its spirit, native language, writing, and customs,
 - embodying the inborn right of each person and the People to live and create freely in the land of their fathers and forefathers, the independent State of Lithuania,
 - fostering national concord in the land of Lithuania,
 - striving for an open, just, and harmonious civil society and law-governed State, by the will of the citizens of the reborn State of Lithuania,
- Approves and declares this Constitution.

Macedonia

[Adopted on 17 November 1991. Amended on 6 January 1992. Amended in 2001]

Taking as starting points the historical, cultural, spiritual and statehood heritage of the Macedonian people and their struggle over centuries for national and social freedom as well as the creation of their own state, and particularly the traditions of statehood and legality of the Krushevo Republic and the historic decisions of the Anti-Fascist Assembly of the People's Liberation of Macedonia, together with the constitutional and legal continuity of the Macedonian state as a sovereign republic within Federal Yugoslavia and freely manifested will of the citizens of the Republic of Macedonia in the referendum of 8 September 1991, as well as the historical fact that Macedonia is established as a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanics and other nationalities living in the Republic of Macedonia, and intent on:

- the establishment of the Republic of Macedonia as a sovereign and independent state, as well as a civil and democratic one;
 - the establishment and consolidation of the rule of law as a fundamental system of government;
 - the guaranteeing of human rights, citizens' freedoms and ethnic equality;
 - the provision of peace and a common home for the Macedonian people with the nationalities living in the Republic of Macedonia; and on
 - the provision of social justice, economic well-being and prosperity in the life of the individual and the community,
- the Assembly of the Republic of Macedonia adopts the Constitution of the Republic of Macedonia.

Moldova

[Adopted 29 July 1994. Published in Monitorul Oficial al Republicii Moldova nr. 1, 18.08.1994]

WE, the plenipotentiary representatives of the people of the Republic of Moldova, members of Parliament,

STARTING from the age-old aspirations of our people to live in a sovereign country, and fulfilling those aspirations in proclaiming the independence of the Republic of Moldova,

CONSIDERING that while growing into a nation the Moldovan people has given strong evidence of historical and ethnic continuity in its statehood,

STRIVING to satisfy the interests of those of its citizens that, while being of a different ethnic origin, are, together with the Moldovans, forming the Moldovan people,

JUDGING the rule of law, the civic peace, democracy, human dignity, the rights and freedoms of man, the free development of human personality, justice and political pluralism to be supreme political values,

BEING AWARE of our responsibility and duties towards the past, present and future generations,

REASSERTING our devotion to overall human values, and our wish to live in peace and harmony with all the peoples of this world, in accordance with the unanimously acknowledged principles and norms of international law,

we herewith adopt for our country this Constitution, and proclaim it to be the SUPREME LAW OF OUR SOCIETY AND STATE.

Poland

[As adopted by the National Assembly on 2 April 1997]

Having regard for the existence and future of our Homeland,
Which recovered, in 1989, the possibility of a sovereign and democratic determination of its fate,

We, the Polish Nation - all citizens of the Republic,
Both those who believe in God as the source of truth, justice, good and beauty,

As well as those not sharing such faith but respecting those universal values as arising from other sources,

Equal in rights and obligations towards the common good - Poland,
Beholden to our ancestors for their labours, their struggle for independence achieved at great sacrifice, for our culture rooted in the Christian heritage of the Nation and in universal human values,

Recalling the best traditions of the First and the Second Republic,

Obliged to bequeath to future generations all that is valuable from our over one thousand years' heritage,
Bound in community with our compatriots dispersed throughout the world,
Aware of the need for cooperation with all countries for the good of the Human Family,
Mindful of the bitter experiences of the times when fundamental freedoms and human rights were violated in our Homeland,
Desiring to guarantee the rights of the citizens for all time, and to ensure diligence and efficiency in the work of public bodies,
Recognizing our responsibility before God or our own consciences,
Hereby establish this Constitution of the Republic of Poland as the basic law for the State, based on respect for freedom and justice, cooperation between the public powers, social dialogue as well as on the principle of aiding in the strengthening the powers of citizens and their communities.
We call upon all those who will apply this Constitution for the good of the Third Republic to do so paying respect to the inherent dignity of the person, his or her right to freedom, the obligation of solidarity with others, and respect for these principles as the unshakeable foundation of the Republic of Poland.

Romania

[Adopted on November 1991. Came into force after referendum on 8 December 1991]

No preamble.

Russia

[Ratified on 12 December 1993]

We, the multinational people of the Russian Federation, united by a common destiny on our land,
asserting human rights and liberties, civil peace and accord,
preserving the historic unity of the state,
proceeding from the commonly recognized principles of equality and self-determination of the peoples
honoring the memory of our ancestors, who have passed on to us love of and respect for our homeland and faith in good and justice,

reviving the sovereign statehood of Russia and asserting its immutable democratic foundations,
striving to secure the wellbeing and prosperity of Russia and proceeding from a sense of responsibility for our homeland before the present and future generations,
and being aware of ourselves as part of the world community,
hereby approve the Constitution of the Russian Federation.

Slovakia

[Adopted on 1 September 1992]

We, the Slovak nation, mindful of the political and cultural heritage of our forebears, and of the centuries of experience from the struggle for national existence and our own statehood, in the sense of the spiritual heritage of Cyril and Methodius and the historical legacy of the Great Moravian Empire, proceeding from the natural right of nations to self-determination, together with members of national minorities and ethnic groups living on the territory of the Slovak Republic, in the interest of lasting peaceful cooperation with other democratic states, seeking the application of the democratic form of government and the guarantees of a free life and the development of spiritual culture and economic prosperity, that is, we, citizens of the Slovak Republic, adopt through our representatives the following Constitution:

Slovenia

[Adopted on 23 December 1991. Amendments 1997, 2000]

Whereas it is in keeping with the Basic Constitutional Charter on Independence and Sovereignty of the Republic of Slovenia, and Acknowledging that we Slovenians created our own national identity and attained our nationhood based on the protection of human rights and freedoms, on the fundamental and permanent right of the Slovenian people to self-determination and as a result of our historical and centuries-long struggle for the liberation of our people.

Be it hereby enacted by the Parliament of the Republic of Slovenia.

Ukraine

[Adopted at the Fifth Session of the Verkhovna Rada of Ukraine on 28 June 1996]

The Verkhovna Rada of Ukraine, on behalf of the Ukrainian people — citizens of Ukraine of all nationalities,

- expressing the sovereign will of the people,
 - based on the centuries-old history of Ukrainian state-building and on the right to self-determination realised by the Ukrainian nation, all the Ukrainian people,
 - providing for the guarantee of human rights and freedoms and of the worthy conditions of human life,
 - caring for the strengthening of civil harmony on Ukrainian soil,
 - striving to develop and strengthen a democratic, social, law-based state,
 - aware of our responsibility before God, our own conscience, past, present and future generations,
 - guided by the Act of Declaration of the Independence of Ukraine of 24 August 1991, approved by the national vote of 1 December 1991,
- Adopts this Constitution — the Fundamental Law of Ukraine.

Yugoslavia

[Adopted on 27 April 1992. The Constitution of the Federal Republic of Yugoslavia]

Mindful of the freedom-loving, democratic and nation-building traditions, historical ties and shared interests of the state of Serbia and the state of Montenegro;

Arising from the unbroken continuity of Yugoslavia and voluntary association between Serbia and Montenegro;

The Federal Chamber of the Assembly of the Socialist Federal Republic of Yugoslavia, following upon the proposals and consent of the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro hereby adopts and promulgates The Constitution of the Federal Republic of Yugoslavia.

NOTES

- 1 See *inter alia* Tilly, 1975.
- 2 From a long list of works see Gellner, 1983, Greenfeld, 1992, Grillo, 1980, Weber, 1976.
- 3 Mann, 1992, p. 4.
- 4 For an understanding of the distinction between *de facto* and *de jure* states see Jackson and Rosberg, 1982, and for the conceptualization of the *de facto* states see Pegg, 2000.
- 5 Ruggie, 1986, p. 143.
- 6 For a discussion on sovereignty see Barkin & Cronin, 1994, pp. 108-110.
- 7 Barkin & Cronin, 1994, p. 109.
- 8 See the Treaty of Westphalia, p. I: "Christian and Universal Peace, and a perpetual, true, and sincere Amity", p. II: "That there shall be on the one side and the other a perpetual Oblivion, Amnesty, or Pardon of all that has been committed since the beginning of these Troubles, [...] that no body, under any pretext whatsoever, shall practice any Acts of Hostility, entertain any Enmity, or cause any Trouble to each other; neither as to Persons, Effects and Securitys, neither of themselves or by others, neither privately nor openly, neither directly nor indirectly, neither under the color of Right, nor by the way of Deed, either within or without the extent of the Empire, notwithstanding all Covenants made before to the contrary: That they shall not act, or permit to be acted, any wrong or injury to any whatsoever; but that all that has pass'd on the one side, and the other, as well before as during the War, in Words, Writings, and Outrageous Actions, in Violences, Hostilities, Damages and Expences, without any respect to Persons or Things, shall be entirely abolish'd in such a manner that all that might be demanded of, or pretended to, by each other on that behalf, shall be bury'd in eternal Oblivion."
- 9 Claude, 1996, p. 367.
- 10 Barkin & Cronin, 1994, p. 114.
- 11 Symbolic and informal ways of transnational suprastatal integration have always existed and continue to exist in the ideas and realities of "flow of capital (and labor force)", "commercial routes", "Christendom" or "Islam", "Western representative democracies", "Francophonie", etc.
- 12 Mann, 1993, p. 115.
- 13 Gellner, 1983, Anderson, 1983, Hroch, 1985, Hobsbawm & Ranger, 1992. Studies, such as Weber 1975, have shown vividly and in detail the important role of the centralizing institutions of the state in the process of homogenization of the population, imposing a language and inducing a feeling of loyalty and belonging to the state and its head as an elementary form and prerequisite of national sentiment.

- 14 For versions of the modernist approach see: for the ethno-symbolic (substantialist) model Smith, 1986, 1991, 1996; for the socio-cultural version see Gellner 1964, 1983, 1997, Anderson, 1983; for the socio-economic version see Hechter, 1975, Nairn, 1977, 1997; for the political version see Hintze, 1975, Tilly, 1975, and the works of Michael Mann; for a sociological-political analysis see Brubaker, 1996; see Kedourie, 1961 for an ideological understanding, and the anthropological theory of ethnic borders of Barth, 1969.
- 15 Epistemologically the primordialist approach comprises three major characteristics of nations: *a priori* nature (ethnic national group forms are the result of primordial ties that cannot be explained by group behavior, social relations or social representations), ineffability (it cannot be expressed or described in discursive analytical language; the ethnic-national principle has ultimate explanatory value), and irrationality (ethnicity and nation are inaccessible to the instruments of reason, and their analysis can only be achieved at the phenomenal level).
- 16 In the line of the ethno-symbolic model theorized by Anthony Smith.
- 17 Law no. 215, April 23, 2001, article 17.
- 18 See Joppke's discussion (1999) for the ethnic and racial census classification in the United States of America and the affirmative policies following this classification and its ideology.
- 19 See the provisions of the CEE states Constitutions regarding the character of the state.
- 20 Barkin & Cronin, 1994, p. 108, and the following.
- 21 In this terminology states are territorial communities legitimately controlled by institutional authorities. Nations are communities of sentiment, on which the authority is grounded.
- 22 For example, economic reform and restructuring, privatization and recombinant forms of property, corruption, or unemployment, the forms of civil society, overlapping of authority, encroachments on state authority by social strata, e.g., the miners in Romania on several occasions, etc.
- 23 This was well indicated by the unprecedented imposition of a Russian citizen, a Soviet marshal and a deputy minister of defense, Konstantin Rokossovsky, as commander in chief of the Polish military. Admittedly, he was of Polish ethnic origin.
- 24 Poland is one of the few countries in the world that is ethnically and religiously homogeneous (Official estimation data 2000: the distribution of the population by ethnicity: Polish 97.6%, German 1.3%, Ukrainian 0.6%, Byelorussian 0.5%; distribution of the population by religion: Roman Catholic 95%, Eastern Orthodox, Protestant, and other 5%).
- 25 Linz & Stepan, 1996, pp. 253-92.
- 26 In its organizing meeting of December 27, 1989, the Council of the National Salvation Front elected the vice-presidents, the prime minister, and other

ministers, and outlined other government structures. A president was not elected, as Ion Iliescu was unanimously recognized as president of this body and by tacit approval that of President of Romania. See Culic, 2002, pp. 65-6 and pp. 107-114.

27 See Culic, 2002, pp. 79-116.

28 *Korinezatsiya*, introduced in 1923 and designed to promote the training and development of native personnel rather than Russian elements in the territorial union republics (homelands), designed as meaningful administrative, constitutional and legal expressions of nationhood. See Smith 1996, p.7.

29 Carrère d'Encausse, 1979, Motyl, 1992, Brubaker, 1996, esp. pp. 23-54.
30 Brubaker, 1996, p. 24.

31 For the following analysis see Annex containing the Preambles of the Constitutions of all states included in the study.

32 Brubaker, 1996b, p. 411.

33 Adapted after *idem*, pp. 415-6.

34 This may go even deeper, to cultural features of the ethnic nation; the Polish Parliament held a debate regarding the religious nature of Polish nationals, arriving at the peculiar formulation: "We, the Polish Nation – all citizens of the Republic, both those who believe in God as the source of truth, justice, good and beauty, as well as those not sharing such faith but respecting those universal values as arising from other sources."

35 Joppke 1999b, pp. 629-31.

36 See above, the case study of Estonia.

37 The two other groups defined as "autochthonous", Germans and Jews, are not granted any special recognition due to their small numbers. The (also) "autochthonous" Croats from the Croatian border villages were not eligible for special categorization.

38 The Roma community was also awarded special attention in the Slovenian Constitution, though its status has not yet been established. Nevertheless, in certain regions where they have traditionally lived, they enjoy direct membership of the municipal councils and are mentioned separately in the legal acts on schooling.

39 The Constitution of the Republic of Slovenia, article 61.

40 Matters of international recognition are also to be taken into account. See, for example, the animosity between Greece and Macedonia over the name of the latter state, despite important economic relations between the two.

41 This is witnessed and expressed in the preambles to Constitutions. See Annex.

42 The figures vary according to the instance that has produced them, and often parts of a state's population are claimed by more than one nation. An obvious example is given by that of the Csangos in Romania, disputed by both Romanians and Hungarians.

- 43 Thus Croatia grants citizenship to any person belonging to the Croat nation. Furthermore, Croats cannot be deprived of Croatian citizenship.
- 44 Croatian Constitution article 10; Hungarian Constitution article 6; Macedonian Constitution article 49; Polish Constitution article 6; Romanian Constitution article 7; Slovakian Constitution article 7; Slovenian Constitution article 5; Ukrainian Constitution article 12.
- 45 Conceptually and practically, there is a political difference between granting the right to double citizenship to emigrants – the most frequent case in the EU – and to members of external national minorities. In the former, it is intended to protect the emigrant; in the latter it is to grant a privilege. Politically there is an issue of trust regarding a minority whose members also hold citizenship of the kin-state, and it may be perceived as a source of conflict and threat to national sovereignty. Many states banned double citizenship, and if they accepted it, it was done under force. For example, Moldova, which was forced by Romanian policy on co-ethnic former citizens, or (former) Yugoslavia. Russia and Ukraine have these restrictions. Romania accepts double citizenship but denies public office to those who hold a second citizenship. Hungary hesitated to grant citizenship, on one hand due to host-state interdictions, while on the other in order to avoid discrimination between co-ethnics living in states with different regimes, Hungary traditionally seeking to treat post-Trianon minorities equally. Nevertheless the present situation makes it possible for Hungarian emigrés in the West to obtain citizenship, while this is impossible for a Hungarian in the Carpathian Basin who lost his Hungarian citizenship involuntary. Double citizenship also has other practical implications, from claims for social and economic resources, to the effects of inclusion in the electorate of non tax-paying citizens.
- 46 Quoted in Fowler, 2002, p. 30. For an analysis of the varieties of kin-state legislation, producing “fuzzy citizenship” see idem pp. 31-40.
- 47 The Roma community could be absorbed into the Hungarian nation as a result of seeking economic benefits.
- 48 See the documents provided by Romania to the Venice Commission.
- 49 See the Council of Europe “Report on the Preferential Treatment of National Minorities by their Kin-State”, adopted by the Venice Commission at its 48th Plenary Meeting, Venice, October 19-20, 2001. Published in Strasbourg, October 22, as document CDL -INF (2001) 19.
- 50 With the exception of Hungary, which maintains its constitution so as to legitimize the continuation of the state and regime but with significant amendments, and Latvia, which, by restoring the interwar independent state, also re-enacted the 1922 Constitution.
- 51 Moldova banned double citizenship, but was forced to reaccept it recently in reaction to either losing population to other states offering citizenship to Moldovans (Romania in particular, but also Russia) or to the illegality of the situation of persons who obtained a second citizenship.

REFERENCES

Secondary sources:

- ANDERSON, B., *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, Verso, London, 1983.
- BARKIN, J. S., CRONIN, B., "The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations", in *International Organization*, vol. 48, no. 1, Winter 1994, pp. 107-130.
- BARTH, F., *Ethnic Groups and Boundaries: The Social Organization of Culture Difference*, Little, Brown & Company, Boston, 1969.
- BENDIX, R., *Nation-Building and Citizenship. Studies of Our Changing Social Order*, Transaction Publishers, New Brunswick USA & London UK, 1996 c.1977.
- BRUBAKER, R., *Citizenship and Nationhood in France and Germany*, Harvard University Press, Harvard, 1992.
- BRUBAKER, R., *Nationalism Reframed. Nationhood and the national question in the New Europe*, Cambridge University Press, Cambridge, 1996a.
- BRUBAKER, R., "Nationalizing States in the Old 'New Europe' – and the New", in *Ethnic and Racial Studies*, vol. 19, no. 2, April 1996b, pp. 411-437.
- CARRÈRE D'ENCAUSSE, H., *Decline of an Empire: the Soviet Socialist Republics in Revolt*, Newsweek Books, New York, 1979, c1978 Fr.
- CĂRĂUȘ, T., "Republica Moldova: identități false, adevărate sau naționale?", *Contrafort*, vol. 4-5 (90-91), April-May 2002. www.contrafort.md
- CLAUDE, I. L., Jr., "Collective Legitimization as a Political Function of the United Nations", in *International Organization*, vol.20, September 1996, pp. 367-79.
- CONNOR, W., *Ethnonationalism: The Quest for Understanding*, Princeton University Press, Princeton, 1994.
- CULIC, I., *Câștigătorii. Elita politică și democratizare în România, 1989-2000*, Limes, Cluj-Napoca, 2002.
- ELLER, J.D., COUGHLAN, R.M., "The poverty of primordialism: The demystification of ethnic attachments", in *Ethnic and Racial Studies*, vol.16, no. 2, 1993, pp. 183-202.
- ERIKSEN, T. H., *Ethnicity and Nationalism. Anthropological Perspectives*, Pluto Press, London, 1993.
- FOWLER, B., "Fuzzing citizenship, nationalising political space: A framework for interpreting the Hungarian 'statu law' as a new form of kin-state policy in Central and Eastern Europe", Centre for Russian and East European Studies, European Research Institute, University of Birmingham, Birmingham, WP 40, 2002.
- GEERTZ, C., *The Interpretations of Cultures*, Basic Books, New York, 1973.

- GELLNER, E. (1964), *Thought and Change*, Weidenfeld and Nicholson, London, 1964.
- GELLNER, E., *Nations and Nationalism*, Blackwell, Oxford, 1983.
- GELLNER, E., *Nationalism*, Weidenfeld and Nicholson, London, 1997.
- GIDDENS, A., *The Nation State and Violence*, University of California Press, Berkeley, 1987.
- GREENFELD, L., *Five Roads to Modernity*, Harvard University Press, Cambridge, Massachusetts, 1992.
- GRILLO, R.D., *"Nation" and "State" in Europe. Anthropological Perspectives*, Academic Press, London, 1980.
- HALL, John A. (ed.), *States in History*, Basil Blackwell, Oxford, 1986.
- HECHTER, M., *Internal Colonialism: The Celtic Fringe in British National Development, 1536-1966*, Routledge & Kegan Paul, London, 1975.
- HECHTER, M., *Containing Nationalism*, Oxford University Press, Oxford, 2000.
- HELD, D., *Democrația și ordinea ei globală*, Univers, București, 2000.
- HINTZE, O., *The Historical Essays of Otto Hintze*, Oxford University Press, Oxford & New York, 1975.
- HOBBSBAWM, E. & RANGER, T. (eds), *The Invention of Tradition*, Canto, Cambridge, 1992.
- HOBBSBAWM, E., *Nations and Nationalism since 1780: Programme, Myth, Reality*, Cambridge University Press, Cambridge, 1990.
- HROCH, M., *Social Preconditions of National Revival in Europe*, Cambridge University Press, Cambridge, 1985.
- JACKSON, R. H., ROSBERG, C. G., "Why Africa's Weak States Persist: The Empirical and the Juridical in Statehood", in John A. Hall (ed.), *The State. Critical Concepts*, Routledge, London & New York, 1994, pp. 267-286.
- JOPPKE, C., *Immigration and the Nation-State: The United States, Germany, and Great Britain*, Oxford University Press, Oxford, 1999a.
- JOPPKE, C., "How immigration is changing citizenship: a comparative view", in *Ethnic and Racial Studies*, vol. 22, no. 4, July 1999b, pp. 629-652.
- KEDOURIE, E., *Nationalism*, Hutchinson Library, London, 1961.
- KING, C. "The Ambivalence of Authenticity, or How the Moldovan Language Was Made", *Slavic Review*, vol. 58, no. 1, (Spring 1999), pp. 117-142.
- KUZIO, T. "National Identity and Democratic Transition in Post-Soviet Ukraine and Belarus: A Theoretical and Comparative Perspective", *RFE/RL East European Perspectives*, vol. 4, no. 15-16 (24 July-7 August 2002). www.rferl.com
- KYMLICKA, W., *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Clarendon Press, Oxford, 1995.
- LECAINE AGNEW, H., "New States, Old Identities? The Czech Republic, Slovakia, and Historical Understanding of Statehood", *Nationalities Papers*, vol. 28, no. 4, (Dec. 2000), pp. 619-650.
- LIEVEN, A., *The Baltic Revolution: Estonia, Latvia, Lithuania, and the Path to Independence*, Yale University Press, New Haven & London, 1993.

- LIEVEN, A., *Ukraine and Russia. A Fraternal Rivalry*, United States Institute of Peace Press, Washington, 1999.
- LINZ, J., STEPAN, A., *Problems of Democratic Transition and Consolidation. Southern Europe, South America, and Post-Communist Europe*, Johns Hopkins University Press, Baltimore, 1996.
- MANN, M., *The Sources of Social Power*. Vol. I, *A History of Power from the beginning to A.D. 1760*, Cambridge University Press, Cambridge, 1986, Vol. II, *The Rise of Classes and Nation States, 1760-1914*, Cambridge University Press, Cambridge, 1993.
- MANN, M. (ed.), *The Rise and Decline of the Nation State*, Basil Blackwell, Oxford, 1990.
- MANN, M., *States, War and Capitalism*, Blackwell, Oxford UK & Cambridge USA, 1992, esp. Ch. 1 "The Autonomous power of the State: its Origins, Mechanisms and Results", pp. 1-32.
- MANN, M., "Nation-States in Europe and Other Continents: Diversifying, Developing, Not Dying", in *Daedalus*, vol. 122, no. 3, Summer 1993, pp. 115-140.
- MEURS, W. van, "Carving a Moldavian Identity Out of History", *Nationalities Papers*, vol. 26, no. 1, (March 1998), pp. 39-56.
- MORGENTHAU, H. J., *Politics among Nations: The Struggle for Power and Peace*, 6th edition, Alfred A. Knopf, New York, 1985.
- NAIRN, T., *The Break-up of Britain: Crisis and Neo-Nationalism*, New Left Books, London, 1977.
- NAIRN, T., *Faces of Nationalism: Janus Revisited*, Verso, London, 1997.
- NĂSTASE, A. et al., *Protecting Minorities in the Future Europe. Between Political Interest and International Law*, RA Monitorul Oficial, Bucharest, 2002.
- PEGG, S., "The 'Taiwan of the Balkans'? The *De Facto* State Option for Kosova", in *Southeastern European Politics*, vol. 1, no. 2, (December 2000), pp. 90-1000.
- POGGI, G., *The State. Its Nature, Development and Prospects*, Polity Press, Cambridge, 1990.
- RENAN, E., "Qu'est-ce qu'une nation?", in *Oeuvres complètes*, Calman-Lévy, Paris, 1947-61, vol. I, pp. 887-906.
- RUGGIE, J., "Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis", in Robert O. Keohane, ed., *Neorealism and Its Critics*, Columbia University Press, New York, 1986.
- SETON-WATSON, H., *Nations and States. An Enquiry into the Origins of Nations and the Politics of Nationalism*, Westview Press, Boulder, Colorado, 1977.
- SMITH, A. D., *The Ethnic origins of Nations*, Blackwell, Oxford UK & Cambridge USA, 1986.
- SMITH, A. D., *National Identity*, Penguin Books, London, 1991.
- SMITH, A. D., *Nations and Nationalism in a Global Era*, Polity Press, Cambridge, 1996.

- SMITH, G. (ed.), *The Baltic States: The National Self-Determination of Estonia, Latvia and Lithuania*, Macmillan, London, 1994.
- SMITH, G. (ed.), *The Nationalities Question in the Post-Soviet States*, Longman, London & New York, 1996.
- SMITH, G. et al., *Nation-Building in the Post-Soviet Borderlands: the Politics of National Identities*, Cambridge University Press, Cambridge, 1998.
- TAAGEPERA, R., *Estonia. Return to Independence*, Boulder: Westview Press, Boulder, 1993.
- TILLY, C. (ed.), *The Formation of National States in Western Europe*, Princeton University Press Princeton, New Jersey, 1975.
- VERDERY, K., "Whither 'Nation' and 'Nationalism'?", in *Daedalus*, vol. 22, no. 3, 1993, pp. 37-46.
- WEBER, E., *Peasants into Frenchmen: The Modernization of Rural France, 1870-1914*, Stanford University Press, Stanford, 1976.
- WEBER, M., *Economy and Society. An Outline of Interpretive Sociology*, (eds. G. Roth & C. Wittich), University of California Press, Berkeley, Los Angeles, London, 1978.

Primary sources (selection):

- "Act on Expatriate Slovaks and changing and complementing some laws" - no. 70 of 14 February 1997, Slovakia.
- "Law regarding the support granted to the Romanian communities from all over the world", L 150/ 16 July 1998, Romania.
- "Federal Law on the State policy of the Russian Federation in respect of the compatriots abroad", March 1999, Russian Federation.
- "Law for the Bulgarians living outside the Republic of Bulgaria", 11 April 2000, Bulgaria.
- "Act on Hungarians living in neighbouring countries", 19 June 2001, Hungary.
- "Resolution of the Slovenian Parliament on the status and situation of the Slovenian minorities living in neighbouring countries and the duties of the Slovenian State and other bodies in this respect", 27 June 1996, Slovenia.
- "Joint Ministerial Decision no. 4000/3/10/e of the Ministers of the Interior, of Defence, of Foreign Affairs, of Labour and of Public Order of 15-29 April 1998 on the Conditions, Duration and Procedure for the delivery of a Special Identity Card to Albanian citizens of Greek origin", Greece.
- "Law on the Measures in favour of the Italian Minority in Slovenia and Croatia", 21 March 2001 no. 73 (extending the validity of Article 14 § 2 of the "Provisions for the development of economic activities and international cooperation of the Region Friuli-Venezia Giulia, the province of Belluno and the neighbouring areas", 9 January 1991, no. 19), Italy/
- "Law on the equation of the South-Tyrolese with the Austrian citizens in particular administrative fields", 25 January 1979, Austria.

- “Resolution of Poland Senate concerning submitting to the Sejm a draft of law concerning the Poles Charter and the procedure to establish the national status of persons of Polish nationality or origin.” 22 aprilie 1999, Poland. Rejected by the Sejm in consecutive occasions, the last in June 2001.
- Government of Romania, “Declaration of the Government of Romania with regard to the adoption of the Law concerning the Hungarians living in Neighbouring Countries”, 19 June, 2001.
- Government of Romania, “The official position of the Romanian Government on the Law on Hungarians living in the Neighbouring Countries”, as submitted to the Venice Commission, 2001.
- Government of Romania, “Supplementary information to the position document forwarded to the Venice Commission”, 2001.
- Government of Romania, “Commentary concerning the position document of the Hungarian Government on the Law on Hungarians Living in the Neighbouring Countries”, as submitted to the Venice Commission, 2001.
- Government of Romania, “Proposals concerning the Law on Hungarians Living in the Neighbouring Countries to be considered by the Venice Commission in the elaboration of its study”, 2001.
- Government of Hungary, “Paper containing the position of the Hungarian Government in relation to the Act on Hungarians Living in Neighbouring Countries”, as submitted to the Venice Commission, 2001.
- Council of Europe, “Report on the Preferential Treatment of National Minorities by their Kin-State”, adopted by the Venice Commission at its 48th Plenary Meeting, Venice, October 19-20, 2001. Published in Strasbourg, October 22, as document CDL -INF (2001) 19.
- Council of Europe, “Framework Convention on the Rights of National Minorities”, 1994.
- Council of Europe, “European Convention on Nationality”, 1997.
- Council of Europe, “Links between European living abroad and their countries of origin.” Report of the Committee on Migration, Refugees and Demography, Parliamentary Assembly, 5 March 1999. Council of Europe document 8339.
- Council of Europe, “Recommendation 1410 on Links between Europeans living abroad and their countries of origin”, Parliamentary Assembly, 26 May 1999.
- OSCE, “Sovereignty, Responsibility, and National Minorities”. Statement issued by Rolf Ekeus, OSCE High Commissioner on National Minorities, The Hague, 26 October 2001.
- “Memorandum of understanding between the Government of Romania and the Government of the Republic of Hungary concerning the Law on Hungarians Living in Neighboring Countries and issues of bilateral co-operation”, 22 December 2001.