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Analysing the Public Mood in Bačka through Various Sources (1941–1944)

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ABSTRACT

In the following study, I examine the public mood in the Bačka region during World War II based on various sources. The analysis of social atmosphere is a challenging aspect of historical research; therefore, I attempt to illustrate it using different sources. For this purpose, I rely on materials of the Ministry of Interior, the reports of the local ethnic Hungarian associations and the different crimes committed in the Bačka. According to the sources, it was a dynamic period for the region, where ethnic conflicts and social tensions were common. The Budapest-centric authorities observed the events from a security perspective, but the reports of the cultural association and the analysis of the trials reveal a local-level perspective, showing the tensions existing in the region, from which the social mood also becomes apparent.

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Introduction

In December 1940, Hungary and Yugoslavia had signed a treaty of friendship, but within half a year, the coup in Belgrade[1] at the end of March 1941 changed all the geopolitical situation. Following the German military attack, Hungarian forces also initiated an assault, which was linked to the revisionist aspirations of Hungarian politics at the time. In April 1941, Hungary gained control over the regions of Bačka, the South of Baranja and Prekmurje. However, they were disappointed with the outcome regarding Banat, as this region did not return to Hungary. The reannexed Bačka region exhibited a highly diverse linguistic, cultural, and religious landscape. Although ethnic Hungarians had a relative majority, the area was also home to hundreds of thousands of Serbs, Croats, Germans, Slovaks, Rusyns, and Jews.

The southern regions (re)annexed by Hungary between 1941 and 1944 have been explored from multiple perspectives by historians. Pioneering research by Enikő Sajti (Sajti 1987, Sajti 2004) must be acknowledged, but recent publications has also brought valuable new insights. Among these, Linda Margittai (Margittai 2023) has published a monograph on the "Jewish Question," while Balázs Valastyán has written a dissertation on Hungarian settlement policy. Zoltán Dévavári, in numerous studies and volumes, has dealt with the Jewish communities of Bácska, the prevailing political circumstances, and the key actors directing policy (Dévavári 2024).

Since 2015, ethnographic approaches have also been applied to the study of this period. (Papp 2015) The two-volume work *Igaz történetek Mindenkiföldjéről* (*True Stories from Everyone's Land)*, edited by Árpád Papp, contains a collection of personal testimonies and recollections gathered between 2009 and 2013. Papp's work is particularly valuable, because before the existing records and studies on everyday life in this period tended to rely on generalizations and only fulfill the most basic expectations. Yet the understanding and interpretation of this era cannot be divorced from the lived social contexts in which events unfolded.

In one of his studies, Papp argues that the years between 1941 and 1948 represent one of the most traumatic chapters in the history of Hungarians in Vojvodina – characterized by summary justice, internments, raids, deportations, the activities of partisans, and postwar trials. Furthermore, in the postwar years, the pressure to remain silent – imposed by the victorious side – left a deep imprint on the psychological condition and collective memory of the Hungarian community.

My study aims to contribute to this field by going beyond (without diminishing the value of oral history) personal recollections and by introducing sources that clearly reflect aspects of everyday life and social mood. These sources can provide valuable perspectives for constructing broader syntheses of the period. Considering the archival materials and recollections examined below, there is significant potential to conduct research in the region that engages with key themes such as trauma and collective memory.

Methodologically, the analysis moves from the macro-level—starting with reports of the Ministry of the Interior—towards the micro-level, including anti-minority reports by local organizations and judicial proceedings. These sources are significant because they reveal a form of *"personalized reality"*, showing how individuals and communities perceived their circumstances. Alongside the initial wave of celebratory sentiment observable among segments of the Hungarian population, the archival material reveals an atmosphere suffused with trauma and fear: it is present in the mindset of the gendarme who sees Chetniks and communists behind every bush in his reports; in the letter of Peter Fernbach, who notes that Hungarian civil servants do not feel safe; and in the mutual denunciations that pervade neighborhood life.

After the (re)annexation, the region's predominantly minority population expressed dissatisfaction with the evolving political and economic situation. Furthermore, due to the economic and supply difficulties arising from the war, a form of discontent was also observed among the local ethnic Hungarian population. This discontent is excellently reflected in the sources, such as the documents of Lesé-Regent lawsuits concerning violations against Miklós Horthy regent, as well as harm to the honour of the Hungarian state and nation. The most examined topics of this period include the raids in Šajkaška (Sajkásvidék)[2] and Novi Sad, as well as the anti-Hungarian atrocities following October 1944. (Matuska 1990, Kasaš 1996) However, the sources presented in this study also suggest that interethnic tensions were prevalent throughout society during this period.

To demonstrate how the public mood was perceived in

[1] On 25th of March 1941 Yugoslavia joined the Tripartite Pact led by Germany, which caused great dissatisfaction in Yugoslavia, and after a pro-British coup, power was seized in Belgrade.

[2] Šajkaška (Sajkásvidék) is an area located at the confluence of the Danube and Tisza rivers in Bačka. The region was named after the *"šajkaši"*, who were mostly Serbian Danube border guards serving in the military. This region was predominantly inhabited by Serbs in Bačka.

Budapest, I use documents from the Ministry of the Interior[3] and the Nationalities and Minority Department of the Prime Minister's Office.[4] Moving closer to the local level, I also examine reports from the Délvidéki Magyar Közművelődési Szövetség showing how Bačka's ethnic Hungarian cultural and political leaders perceived reality. Finally, to explore the sentiments of ordinary people, I incorporate various legal documents such as those related to Lesé-Regent Crimes and Crimes Against the Honour of the Hungarian State and Nation.

Results

Occupation – Liberation

The ethnic Hungarian population of Bačka experienced these events as a liberation from 23-year-long Serbian occupation, during which they had been treated as second-class citizens, affecting them on political, economic, cultural, and educational levels (Dimić 1997, Sajti 2004, Janjetović 2006). The Hungarian army was met with celebratory crowds in ethnic Hungarian villages. Locals generally selected national guards to maintain public order during the period between the withdrawal of Yugoslav forces and the arrival of Hungarian troops.

Yugoslav forces did not offer significantresistance, as the regular Yugoslav army had largely withdrawn from the Bačka area by April 12 due to the rapid German assaults. Only near Bački Petrovac did a battle occur between the regular forces of the two countries. However, the Yugoslav military apparatus also included irregular forces, consisting mostly of armed dobrovoljac[5] and chetnik units, though no organized action took place, as these groups were only supplementary to the regular units. (Sajti 2004, 164–168.) While sporadic resistance emerged in the region, it was harshly repressed by the Hungarian army. During the pacification process, the Serbian population was disarmed, though later investigations revealed several instances of excesses. The Hungarian military leaders even acknowledged that panic had broken out in certain areas, leading to overreactions against the civilians. During the military action, seven Hungarian officers and 119 soldiers were killed, and two officers and 239 soldiers were wounded. According to post-war Yugoslav data, 3,506 civilians died as a result of the Hungarian invasion. In contrast, Hungarian records state that the death toll was 1,435. 313 were summarily executed, and 1,122 died in various "gang" skirmishes (Sajti, 2004, p. 153–198.).

These excesses poisoned relations between the local ethnic Hungarian and Serbian populations from the beginning of the occupation. In response, the military leadership instructed the ethnic Hungarian upper class in Bačka to contact with the Serbs. A letter received by the military command from Imre Deák, a local officier in Sombor, stated:

"A firm call has come to the Hungarian Reading Society (Magyar Olvasókör) to invite Serbs, Bunjevci, and Germans to engage in social interactions. We are now tasked with establishing contact with those Serbs with whom, for 23 years, our interactions have been limited to official spaces. Without knowing exactly where this idea came from, we are compelled to begin socializing. This includes engaging with those Serbs who are still mourning the loss of family members or whose relatives are still in flight."[6]

Reports of the Ministry of Interior and Department of Nationalities

The unpredictable situation, marked by changes to the national borders, further intensified the already tense interethnic relations, as demonstrated by the processed documents. These tensions can only be traced through archival sources, as wartime censorship heavily restricted the press. Among the preserved documents of the Ministry of the Interior and Department of Nationalities and Minorities, there are dozens of reports sent by police, gendarmerie, and other intelligence officers, which paint a very dynamic picture about the region. Given the large volume of documents, I focused on the reports issued by the local police forces in Sombor, Subotica, Novi Sad, and Senta, as they were required to send monthly situation reports to the Ministry of the Interior's Public Security Department. The documents clearly show that local police forces extended their activities beyond the country's borders. The reports from Sombor contain extensive information about the situation in neighbouring Croatia, while reports from Novi Sad also cover the Srem region. Senta, likely due to its proximity to the Tisa bridge, emerged as a hub for news originating from the Banat.

According to the reports from Croatia and Srem, partisans were really active, while in the Banat, the German military was cracking down on ethnic populations, including the

[3] Hungarian National Archives, Reserved Documents of the Ministry of the Interior (MNL OL K149)

[4] Hungarian National Archives, Prime Minister's Office, Department of Nationalities and Minorities (MNL OL K28)

[5] Dobrovoljac (volunteer in Serbian) were slavic colonists who were settled to Vojvodina between the two world wars

[6] MNL OL K-28 101. b. 1941–R–18509.

ethnic Hungarian community. Similar incidents also occurred in Bačka, causing widespread panic among the local population. According to the sources, at the beginning of the occupation, these elements were referred to as Chetniks. However, later on, the sources predominantly mention the Partisans. This also illustrates how the national resistance gradually lost ground to communism within the local resistance movements, and also how the Hungarian authorities saw bigger threat from the partisans than the chetniks. One lengthy report details the investigation into communist organizing activities, outlining 56 sabotages actions committed in Bačka between July 20 and October 2 1941. These actions not only endangered lives but also posed a threat to crops and infrastructure, causing considerable fear among the locals. The greatest damage occurred in Bački Petrovac, where 130 wagons of hemp were set on fire in early October, and the perpetrators were captured and executed summarily.[7] A report from Senta, dated July 1941, mentions:

"The mood in the city – generally – is not the most peaceful. The harvests have finished, and threshing is currently underway. The local farmers are full of anxiety, fearing possible sabotage and that the partisans will burn the crops. Some reassurance is provided by the fact that bicycle detectives and an adequate number of field guards (mezőőr) are patrolling the plains, monitoring the mood of the workers, and checking passers-by in the border area."[8]

At the beginning the press actively reported on the sabotage, but Péter Fernbach, Lord Lieutenant[9] of Novi Sad, requested that military authorities instruct newspapers to refrain from reporting on these acts of sabotage, as it was filling the local Serbs with pride.[10] The sabotage escalated significantly, prompting the Hungarian military leadership to organize a large-scale raid in the Šajkas region and Novi Sad, remembered as the "Cold Days." Several gunfights broke out between the partisans and Hungarian authorities, which led Ferenc Szombathelyi, the chief of military leadership, to deploy army forces to Novi Sad and Sajkasland.

On 4th January 1942, the general staff estimated the number of partisans to be 100–110. In the first days, the resistance was broken, but the raid's goal was not only to eliminate the remnants of partisan units but also to rid the area of "undesirable elements." The operation targeted the municipalities of Čurog, Žabalj, Mošorin and Šajkaš, and confessions extracted from prisoners allegedly revealed a large-scale uprising. The military authorities claimed to „have found" plans for the uprising in the possession of Frigyes Freund, who was killed while attempting to flee.

Later, they "believed" that the uprising had been planned to come from the Banat and that the ethnic Hungarian and German populations would have been targeted for extermination. On 12th January 1942, Feketehalmy-Czeydner Endre, the leader of the raid, sent a misleading report to the Minister of the Interior, stating that the partisans had retreated to Novi Sad and therefore the raid needed to be extended to the city. Between January 15th and 20th, the raid expanded to the area bounded by Bečej, Srbobran, Temerin, and Novi Sad, under the justification that the local population supported the partisans. A complete news blackout was ordered regarding the events.

On 21th of January, an announcement was made in Novi Sad, informing the inhabitants that the raid had begun. The city was divided into districts, and identity checks began. On the first day, 25–30 people were executed, their bodies disposed of in the icy Danube. However, Feketehalmy was not satisfied with the results. On January 23, it was reported that the Novi Sad raid's toll had reached 3,500 people, many of whom were innocent. The raid in Novi Sad concluded on January 23, and Miklós Nagy, the mayor of Novi Sad, along with local Hungarian leaders, demanded its cessation. On January 30, Szombathelyi gave the order to end the raid in the Sajkás region. According to statistics compiled in 1944, 3,340 people died during the raids, including 2,550 Serbs and 743 Jews. Among them were 2,102 men, 794 women, 299 elderly individuals, and 147 children. The news of these atrocities spread quickly, and the political fallout was difficult to quell. The exiled Yugoslav government based in London reported 100,000 Serbian victims. However, it is important to note that the main perpetrators were brought to trial during Miklós Kállay's tenure as prime minister, but they fled to Germany. Later, many of them were executed after the war. (Sajti 1987, p 152 – 168, Pihurik 2015, Buzási 1963, Golubović 2004, Veljić 2010).

According to reports, however, the raids failed to resolve the issue of sabotage, and reports continued to arrive regarding partisans crossing into the Banat and Srem

[7] MNL OL K159 72. b. 651 f 2/1941–6–12659

[8] MNL OL K159 72. b. 651 f 2/1941–6–12659

[9] Lord Lieutenant (főispán, veliki župan) is a historical administrative title in Hungary, referring to the appointed head of a county or free royal city. Their role traditionally included overseeing local governance, implementing state policies, and maintaining order on behalf of the central government.

[10] Historic Arhives of Novi Sad, F260 Veliki župan Sl. Kraljevskog grada Novog Sada Opšti spisi 1. box 168/1941.

regions, where they engaged in firefights with the gendarmerie and military.[11] Although there were attempts at rapprochement with the Serbs during the Kállay government, the shadow of the raid still loomed over the region, (Sajti 2004, p. 271–290.) and the raids failed to calm the tensions, as evidenced by a 1943 report from the 5th Hungarian Army Corps headquarters in Szeged. It mentioned that civil servants from Hungary were openly expressing their intent to request reassignment to territories within the borders, as they no longer felt safe in Bačka. This behavior caused concern among the local ethnic Hungarians, while the Serbian population spread rumors about the Hungarians fleeing.[12]

The reports from the Ministry of the Interior contain many details not only about ethnic movements but also about political activities and the actions of various individuals. These reports reveal that the authorities were desperately clinging to the established situation and viewed even minor actions with suspicion, even keeping track of conversations among the Jewsin Subotica or how Hungarian János Vámos, member of the parliament secured positions for his family members in various city appointments.[13] However, these reports do not offer insight into the deeper society, particularly the relationships among ordinary people. Not only the Budapest-based central authorities but also the cultural organizations operating in the annexed territories worked hard to maintain order, often invoking old grievances while suppressing ethnic movements.

Reports of the Délvidéki Magyar Közművelődési Szövetség

The history of Bačka between 1941 and 1944 cannot be fully understood without examining the activities of the Délvidéki Magyar Közművelődési Szövetség (DMKSZ),[14]which provides important insights into the public mood of the time. Due to the fragmented documentation and scarcity of sources, the activities and significance of this organization have not been fully studied.[15]

Between the two world wars, after the 1929 ban on the Hungarian Party, the Hungarian community in Yugoslavia was left without unified political representation, and various efforts had different centers around Subotica, Novi Sad, Sombor, and Veliki Bečkerek.[16] Due to changing geopolitical circumstances and the Hungarian-Yugoslav convergence, the long-standing request of the Hungarian community was granted, and the unified cultural alliance was established, though they were prohibited from forming an ethnic political party.

The alliance, founded in November 1940, adopted its statute in early February 1941, and thereafter began unifying the ethnic Hungarian community in Yugoslavia. During the war, the alliance was very active, with over 300,000 members and 245 branches spread across significant towns in Bačka and Banat, engaging in a broad range of activities, including cultural, educational, economic, and sports. (Hegedűs, 1943) What is important for us and for studying the public mood is that under the guidance of the Novi Sad headquarters, the branch organizations compiled reports for the Prime Minister's Nationalities and Minorities Department about the ethnic movements in their areas. These reports also covered the non-annexed territories, and the well-organized branches in Banat[17] and the Independent State of Croatia[18] provided information to the Hungarian military and political leaders.

Although the order to send these reports has not yet surfaced in the archives, the first document about it is a letter from Gyula Kramer, the president of the alliance that he warns the branches that they asks again them to send the reports about nationalities immediately and the monthy reports should be sent until the 5th of each month.[19] Existing sources suggest that Gyula Krámer himself ordered the branches to prepare reports on his own initiative rather than under higher orders, because a report prepared for the Minister of the Interior in December 1941 suggests (!) consulting the closest leadership of the DMKSZ. The report emphasizes that the

[11] MNL OL K28 100. box, 1943 – R – 16883.
[12] MNL OL K 28 166. box, 1943 – R – 31938.
[13] MNL OL K 28 100. box 1943 – R – 15026.
[14] Délvidéki Magyar Közművelődési Szövetség (South Hungarian Cultural Alliance) was a Hungarian umbrella organisation in Vojvodina which coordinated the ethnic Hungarian cultural associations.
[15] Because of the various activities, the documents of the DMKSZ are not well-organized. Before the leadership fled from Novi Sad, they burned the alliance's archive. The remaining documents are now divided among several archives in Serbia and Hungary."
[16] In Subotica, the Hungarian Reading Circle (Magyar Olvasókör) had a significant influence, in Novi Sad, the cultural life was organized by the Reggeli Újság newspaper, in Sombor, Leó Deák played a central role, while in Veliki Bečkerek, Imre Várady was at the center of events.
[17] Cj: MNL OL K 28 165. box 1942–R–15408, MNL OL K 28 165. box 1942–R–16406, MNL OL K 28 1942–R –20854
[18] MNL OL K 28 165. box 1942–R–15101
[19] Museum of Vojvodina, Proces Deak Leo, Zombori (MV) 8473.

alliance not only understand the local conditions but also maintains records on the activities of dangerous and unreliable elements.[20] But according to the sources Krámer himself in 21 January 1942, instructed the branches to send a list of all Slavic and Jewish residents in their area, including their exact addresses, within a week.[21] This order coincided with the Novi Sad and Šajkaš region raids. However, due to the short timeline, I suppose the military authorities were unable to use these lists. The activities of ethnic groups continued to be reported to the Novi Sad headquarters.

The reports indicate that the authorities monitored ethnic groups' actions with heightened anxiety, and old prejudices often led to overreactions, interpreting minor actions as separatist attempts. The local branches actively opposed not only the Serbs but also ethnic groups from allied countries. The nature of these reports reveals a climate of wartime paranoia and hysteria. The most active were the Germans, particularly members of the Kulturbund.[22] Reports show that in November 1941, violence between German and Hungarian students became common in Odžaci, and in Deronje, German youth targeted Serbs, beating them when they were perceived as uncooperative or disrespectful.

However, the ongoing fear within the ethnic Hungarian community in the region led to close cooperation with the authorities, ensuring their survival during the wartime upheaval. An example of wartime paranoia is illustrated by a 1942 report suggesting that Slovak "nationalist" ambitions were suspected in Pivnice, a southwestern Bačka. The report states: "Under the guise of a church census, they are conducting an ancestry-based population survey. (…) It is feared that Slovak fanatics might register Hungarian families as Slovak. (…) According to whispered propaganda, Hungarians and Slovaks loyal to Hungary in the area will be exterminated after the war."[23]

A confidential letter from the Ministry of the Interior provides important insights into these reports. Pál Balla, a ministerial secretary, requests clarification from Leó Deák, the Lord Lieutenant of Bács-Bodrog County, regarding DMKSZ reports. One such report mentioned that the Bunjevci of Subotica were collecting signatures to petition for the area to be annexed to Croatia as soon as possible. Deák investigated the matter but found no evidence to support the claim. In the letter, he points out to Balla that numerous reports are being received from the DMKSZ, but so far, none of the investigations have yielded results, and instead of focusing on cultural organization, the alliance seems preoccupied with denouncements.[24]

These sources reveal not only the conflicts between nationalities but also the perceptions of reality among ethnic Hungarian leaders in Bačka. However, these reports alone do not provide a completely accurate picture. To achieve this, one must delve into the everyday lives of ordinary people, where widespread suspicion was also observed toward those dissatisfied with the established order. The legal documents arising from these situations offer a rich glimpse into daily life. I consider the Lesé-Regent Crimes and Crimes Against the Honour of Hungarian State and Nation to be particularly revealing in this regard.

Lesé-Regent Crimes and Crimes against the Honour of Hungarian State and Nation Conclusion

Lesé-regent crimes and crimes against the Honour of Hungarian State and Nation occurred frequently in the occupied Bačka during the three and a half years discussed. In my research, I examined 87 lesé-regent crimes and 93 crimes against the Hungarian state and nation documented at the Csongrád County Archive[25] in Szeged, which were committed in the occupied Bačka region (Csőke 2021). I chose these trials because they clearly reveal the public mood of the region and the trials are very detailed and noteworthy for the fact that even relatively minor offenses, by today's standards, led to numerous mutual denunciations. This also proves that a part of the ethnic Hungarian population, which had moved from a minority to a majority position, clung to the concept of intellectual defense due to past grievances, interpreting any statement insulting Hungary or Governor Miklós Horthy as a danger.

In several instances, an attempt was made to accuse someone of the crime, meaning that treason was also used as a tool for settling personal disputes (Bröker 2021). Anyone who insulted Horthy was likely dissatisfied with the

[20] BM K 149 72. doboz 651.f2/1941–6–18585
[21] MV 8475.
[22] This is referenced in Gyula Krámer's letter to Prime Minister László Bárdossy dated November 12, 1941, in which he informs him that, based on the reports received, there are numerous problematic issues concerning the Germans. MNL OL K28 118. box 1941–D–27032
[23] MNL OL K28 175.b. 1942–P–24768.
[24] MNL OL K 28. 165. b. 1942–R–16273.
[25] Hungarian National Archives, Csongrád County Archives, VII. Territorial Judicial Authorities, 2. Records of the Royal Court of Szeged, b. Criminal Case Files.

current situation. Additionally, fear of national independence movements and communism may have contributed to the denunciations. In this regard, I largely agree with Dávid Turbucz, who states: The insult of Miklós Horthy did not always have a concrete political reason. It is difficult to explain some citizens' expressions politically, especially if the defendant was drunk when making an insulting statement about Miklós Horthy (Turbucz 2015, p. 185).

The legal foundation for the Lesé-Regent trials was prepared by two laws: *The Act I of 1920, titled On the Restoration of Constitutionalism and the Temporary Arrangement of the Exercise of State Sovereignty*,[26] laid down the conditions necessary for stabilizing the situation in the country. The second chapter, paragraph 14, concerning the powers of the governor, states that: "The person of the governor is inviolable and is entitled to the same criminal protection as the king under our laws." This paragraph referred to *The Act XXXVI of 1913, On the Insult of the King and the Attack on the Institution of the Monarchy*,[27] the second section of which stated: "Anyone who insults the king or criticizes the king's actions in a manner that is offensive shall be punished with imprisonment for up to two years, suspension of political rights, and loss of office." The second section also covered treason against the governor committed through "printed material, illustrations," or "public speech," for which a sentence of up to three years imprisonment and a fine of up to four thousand crowns, alongside suspension of political rights and loss of office, could be imposed.

Crimes against the Honour of the Hungarian State and Nation were regulated by *The Act III of 1921, On the More Effective Protection of the State and Social Order*[28] (Drócsa 2017, p 215.)."The first part of the law dealt with crimes and offenses aimed at subverting or destroying the state and social order, mainly punishing attempts by various extremists to violently establish the exclusive rule of a particular social class. The second part of the law concerns Crimes and offenses against the Honour of the Hungarian state and the Hungarian nation."[29] According to Section 7, "Anyone who states or disseminates false facts that are capable of damaging the honour or reputation of the Hungarian state or the Hungarian nation commits an offense and shall be punished with imprisonment for up to five years." Section 8 further stipulates that "Anyone who uses derogatory expressions against the Hungarian state or the Hungarian nation or commits such an act shall be punished with imprisonment for up to three years."

According to the sources the mood of the non-Hungarian population in Bačka was chaotic, partly due to the Hungarian invasion and the uncertain circumstances. The illusion of a thousand-year-old Hungary, and Hungarian supremacy often led to unnecessary conflicts in the multi-ethnic region. The two trials mentioned above were similar to each other; the only difference that they insulted the state, the nation, or its leader. However, since the figure of Horthy himself symbolized Hungary and the established situation, similar motivations could have been behind the acts of these crimes.

Based on the 87 Lesé-Regent Crimes and the 93 Crimes Against the Honour of Hungarian State and Nation that I analyzed in Bačka, I categorized the background of these offenses into three groups: a) Crimes resulting from ethnic conflicts, which the heterogeneous ethnic composition of Bačka provided a good foundation for. b) Crimes committed due to social dissatisfaction, particularly during the war standard of living fell and people started to criticize Miklós Horthy or the circumstances. c) Accidental treason against the governor, where the perpetrator did not necessarily intend to insult Miklós Horthy or the state, or committed the crime as a result of drunkenness or due to the peculiar development of events that turned the situation into a crime.

A classic case of national disgrace is where the Hungarian people were depicted in a negative light. These cases are often similar to "crimes aimed at subverting or destroying the state and social order" because they were frequently uttered with the intention of disinformation. For example, Živko Miatov, while drinking in a pub in Sivac, stated: "If Hitler hadn't been, the Hungarians wouldn't have occupied Bačka."[30] In December 1942, a pro-Serb Hungarian in Novi Sad told his Hungarian neighbors, "Christmas is coming and so are the Russians, and they will hang themselves. The filthy Hungarian kids should not multiply."[31]

We should also pay attention to how previously pro-Hungarian elements, under societal pressure, became enemies of the system. In the trial, the Serbian factory manager Frigyes Stojadinović, who was presented as a pro-Hungarian figure, took part in a military parade in May

[26] 1920. évi I. törvénycikk az alkotmányosság helyreállításáról és az állami főhatalom gyakorlásának ideiglenes rendezéséről
[27] 1913. évi XXXIV. törvény a király megsértéséről és a királyság intézményének megtámadásáról
[28] 1921. évi III. törvény Az állami és társadalmi rend hatályosabb védelméről szóló
[29] A magyar állam és a magyar nemzet megbecsülése ellen irányuló bűntettek és vétségekről
[30] MNL CSML 63. b. 5610/1941.
[31] MNL CSML 71. b. 2261/1943.

1941. During the parade, the celebrating crowd chanted "Hitler, Horthy, take the Serbs out!" The next day, during an outburst, Stojadinović insulted the Hungarian nation.[32]

A significant portion of the trials took place in bars, where people were drinking. Bars like today, was a social gathering point of the time, where alcohol often loosened tongues. During such encounters, national issues, and sometimes even Horthy's persona, were often included in the curses, which were reported as acts against the nation. Occasionally, there were absurd and laughable cases, but we should not forget that in that era, such offenses could result in months of imprisonment for the perpetrator. To demonstrate this, consider the case of Erdevik Rado. "On 15 December 1941, from 7 am to around 2 pm, the accused and Varga Péter drank palinka together at Milin Radó's tavern in Čurog. In the afternoon, having consumed the palinka, they started insulting each other's mothers. First, Varga Péter, with poor Serbian, said to the accused: 'I f..k your mother, you Serb,' to which the accused replied: 'I f..k your mother, you Hungarian.' After this, they argued, Varga Péter reported the incident, and since “the accused intended to insult Péter Varga through his Hungarian origin and thus insulted the Hungarian nation, he was sentenced to one and a half months of imprisonment."[33]

The "thoroughness" of the Hungarian authorities is also demonstrated by the investigation in Budisava, where it was mentioned that "next to the unframed (!) picture of the Governor, a photograph of Adolf Hitler was also hung, which was properly framed."[34] However, the most interesting aspect, in my opinion, is the ideological and political expressions of the children; a few trials offer insights into this as well. On 6 June 1941, in Sivac, three German national students – Philip Kanzler, Jakab Hoffmann, and Fridrich Stieb, all of whom were under 16 years old – attempted to destroy a picture of Horthy in their school.[35] In Feketić, 13-year-old Hilda Breitweiser spat on the picture of Governor Horthy placed in the window of the "Batta Shoe Shop" twice.[36] There were also instances of "mischief" where Horthy’s picture was placed on the wall of a bathroom.[37] During the interrogation of Miklós Kaizer, he recounted that "on 25 May 1941, he was present at the sports field in Bukin when the football players from Bukin and Palona were playing. At the end of the game, the Palona players shouted three times 'heil' in German, to which the children of Bukin on the field responded with 'Heil Hitler'."[38] This could be evidence that war propaganda and Nazi ideas also influenced the thoughts of children.

The social aspects of the trials clearly show that the perpetrators came from poorer backgrounds. In this category, we also see a significant number of ethnic Hungarian offenders from Bačka. Shortly after the occupation of the territory, Hungary entered World War II, bringing with it scarcity, rising prices and mandatory military service. In addition, the citizens of Yugoslavia had lived in peace and only experienced the horrors of the war as inhabitants of Hungary. This led to many offenses such as: "Since the Hungarians came to Bačka, everything has become more expensive,"[39] or "damn Hungarians and the Regent, that big-headed, they ruined the country."[40] The land distribution issue was particularly sensitive for the Hungarians of Bačka. They were excluded from the Yugoslav land distribution, (Gaćeša 1968) which the local landless population wanted to revise. The Hungarian government made a promise to address this, though it did not have significant consequences, as only the Bukovina Székelys[41] and vitéz order[42] received land (Valastyán 2019). This caused considerable outrage. When Antalné Visnyei received a military draft notice for her husband, she told the police officer: "This is what Horthy is for, let the devil eat his flesh, they found my husband now, but they didn't find him during the land distribution."[43] Antalné Visnyei immediately regretted what she had said and begged the officers not to report her, as she was a mother of three and expecting her next child in nine months, while her husband had just received the draft. These circumstances did not affect the police or the court, and the Szeged Royal Court sentenced her to one month in prison. The wartime years following 1941 were undoubtedly harder in terms of livelihood than the "peaceful" years under Yugoslavia, and these hardships often became intertwined with criticism of the ruling regime in people's minds.

The scope of this study does not allow me to provide a detailed account of the antisemitism prevalent during the era; fortunately, this is addressed in one of Linda Margittai's books (Margittai 2023). However, I would like to point out that antisemitism is also present in my sources.

[32] MNL CSML 65. b. 416/1942.
[33] MNL CSML 64. b. 6873/1941.
[34] MNL CSML 65. b. 705/1942.
[35] MNL CSML 63. b. Fbl. 5911/1941.
[36] MNL CSML 63. b. Fbl 5944/1941.
[37] MNL CSML 67. b. B 4632/1942.
[38] MNL CSML 64. b. B6164/1941.
[39] MNL CSML 78. b. 3921/1944.
[40] MNL CSML 64. b. 6611/1941.
[41] Székely people from Bukovina were settled in Bačka in place of the Serbian colonists who arrived after 1918.
[42] The vitéz order was an institution that served as a substitute for nobility during the Horthy era.
[43] MNL CSML 75. b. 7215/1943.

As early as 1941, records of Crimes Against the Honour of the Hungarian State and Nation already include incidents of physical violence against Jews. In Bečej, the equipment of the cinema owned by Jewish Windpassinger Béla was destroyed, prompting him to remark upon seeing the damage. "The barbarians have left, the Tatars have arrived," referring to the Hungarians.[44] "You scoundrel Hungarians, robbers, is this how you want to save the country?"[45] cried Rosenfeld Márton, a Jewish feather merchant from Senta, when he was attacked on the street in October 1941 because of his Jewish identity. His attackers fled when he shouted, but upon hearing his remarks, locals reported the incident, and Rosenfeld was not excused even on the grounds that he made the statements in a state of agitation. He was ultimately sentenced to three months in prison.[46]

Even without malicious intent, statements constituting insults to the governor, which also reflect antisemitism. In Bajmok, Erdélyi György, during a drinking session, tried to persuade a companion to take out a usurious loan from the local Jew. When his suggestion was rejected, he emphasized his point, saying, "Why not? After all, even Regent Miklós Horthy himself works with Jewish money."[47] It is also evident that Jews could find themselves embroiled in the Hungarian-German conflict. For instance, Eckhert Péter, a German-origin resident of Sekič, referred to the Hungarians with the comment, "These people are even worse than the Serbs," and added, "There has never been order in this country because it is a Jewish country, and old Horthy himself is an old Jew."[48]

The importance of the Lesé-Regent crimes and the Crimes against the honour of the Hungarian State and Nation in the context of Bačka lies primarily in the examination of social discontent. These offenses highlight that, alongside the "joyous euphoria" felt by the local ethnic Hungarian population after the (re)annexation, there was often a critical stance toward the process of the military occupation and the circumstances surrounding the happenings. These two types of trials are regulated by separate laws, but the motivations of the offenders stem from the same source: dissatisfaction fed by the newly established situation. The trials clearly show that the offenders committed the crimes detailed below due to resentment over the Hungarian annexation, and the failure of the expected prosperity after it. Some attributed the situation to Miklós Horthy, while others generalized their dissatisfaction to the Hungarian nation as a whole. Even the slightest criticism of the Governor could easily result in someone being placed in the defendant's chair. On the other hand, the lack of criticism contributed greatly to the idealization of Miklós Horthy and the cult surrounding him. The cases presented above, the reports of the DMKSZ, and those of the internal affairs sources also reveal that the period under discussion was highly chaotic, marked by social dissatisfaction and ethnic conflicts. I do not claim that the social atmosphere can be fully reconstructed, but these sources contribute to understanding the processes that shaped the events.

As the sources presented above clearly illustrate, the period between 1941 and 1944 was marked by significant tension and conflict in everyday life, affecting both the Serbian and Hungarian populations. These sources are particularly valuable because they enable an examination of everyday social realities and shed light on interethnic conflicts during the occupation. Naturally, what is most crucial is the *personalised reality*, a reality shaped not only by the joy some felt at the moment of "liberation," but also by the fear of losing previously acquired rights. As mentioned earlier, the years 1941 to 1948 represent one of the most traumatic periods in the history of the Hungarian community in Vojvodina. With this study, I aim to contribute to future research by drawing attention to this body of sources, which is particularly well-suited to reconstructing and analyzing the social atmosphere of the time.

Conclusion

This study has explored the public mood in the Bačka region during World War II through a diverse range of sources, including state security reports, local Hungarian cultural association records, and criminal case documentation. The findings reveal a dynamic and often volatile social environment marked by ethnic conflict and heightened tensions. While Budapest authorities interpreted events primarily through a security lens, local sources offer a more nuanced perspective on daily life and communal relations. Together, these materials illuminate the fragmented and contested nature of social sentiment in the region, underscoring the importance of multi-source analysis in reconstructing historical atmospheres.

[44] MNL CSML 68. b. B 1794/1942
[45] MNL CSML 66. b. B 2459/1942.
[46] MNL CSML 66. b. B 2459/1942.
[47] MNL CSML 71. b. 2677/1943.
[48] MNL CSML 72. b. 3158/1943.

COMPETING INTERESTS

The author has no competing interests to declare.

REFERENCES

Bröker J., 2011, „Horthy is a nobody" – Trials of lése-régent in Hungary 1920–1944., 2011, Central European university History Department

Buzási J., 1963, Az újvidéki „razzia", Budapest, Kossuth Kiadó

Csőke M., 2021, „A szerbek rosszak voltak, de a magyarok még rosszabbak" – Kormányzósértési perek, valamint magyar állam és nemzet elleni vétségek a visszacsatolt Bácskában in Híd, n. 6, p. 110–138.

Dévavári Z., 2024, Elfeledett mártírunk. Deák Leó Bács-Bodrog vármegyei főispánsága (1941–1944), in Veritas évkönyv 2023, Budapest, Veritas Történetkutató Intézet és Levéltár 302–338.

Dimić Lj., 1997, Kulturna politika u Kraljevini Jugoslaviji: 1918–1941. Deo 3, Politika i stvaralaštvo, Beograd, Stubini kulture

Drócsa I., 2017, „Az állam és társadalmi rend hatályosabb védelméről szóló 1921: III. törvénycikk elhelyezése a XX. századi magyar büntetőjogi rendszerben", in: Iustum Aequum Salutare XIII. n. 2. p. 215–231.

Gaćeša N., 1968, Agrarna reforma i kolonizacija u Bačkoj 1918–1941., Novi Sad: Matica Srpska

Golubović Z., 2004, Racija 1942, Novi Sad, Enciklopedija Novog Sada

Hegedűs L. (ed.), 1943, A Délvidéki Magyar Közművelődési Szövetség évkönyve 1942/1943, Újvidék, DMKSZ

Janjetović Z., 2006, Deca careva, pastočad kraljeva: Nacionalne manjine u Jugoslaviji 1918–1941, Beograd, Insitut za noviju istoriju Srbije

Kasaš, A., 1996, Mađari u Vojvodini, 1941–1946, Novi Sad, Filozovski Fakultet u Novom Sadu

Margittai L., 2023, „Zsidókérdés" a Délvidéken, Pécs, Kronosz Kiadó

Matuska M., 1991, A megtorlás napjai, Novi Sad, Forum

Papp Á. (szerk.) 2015, Igaz történetek Mindenkiföldjéről. Zenta, Vajdasági Magyar Művelődési Intézet

Pihurik J. 2015, „Vagy ők vagy mink". Harminc évvel a csurogi razzia után. in: Pihurik J., Perben és haragban világháborús önmagunkkal, Pécs-Budapest, p. 69–97.

Sajti E., 1987, Délvidék 1941–1944, A magyar kormányok délszláv politikája, Budapest, Kossuth Kiadó

Sajti E., 2004, Imériumváltás, revízió, kisebbség, Magyarok a Délvidéken 1918–1947., Budapest, Napvilág Kiadó

Turbucz D., 2015, Horthy – kultusz 1919–1944, Budapest, MTA Bölcsészettudományi Kutatóközpont Történettudományi Intézet Budapest

Valastyán B., 2019, Magyar földbirtok- és telepítéspolitika a visszacsatolt Bácskában 1941–1944. Szeged, Szegedi Tudományegyetem Phd értekezés

Veljić A., 2010, Istorija o Novosadskij raciji, Sremska Kamenic

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Framework of the European Union Social Security Coordination and Its Digitalisation

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ABSTRACT

Social Security Coordination (SSC) within the European Union (EU) is a framework that ensures individuals retain their social security rights as they move across member states, particularly in terms of pensions, healthcare, and unemployment benefits. The EU has made significant strides in integrating and simplifying the coordination of these systems, ensuring that people are not disadvantaged by cross-border mobility. This article examines the core principles of SSC and its ongoing evolution, particularly in light of increasing digitalisation through tools like the Electronic Exchange of Social Security Information (EESSI), Social Security E-Document (SED), and the European Digital Identity (EUDI). While the digital transformation of SSC is transforming the efficiency and transparency of cross-border exchanges. This paper highlights the importance of both technological advancements and institutional cooperation in achieving seamless and equitable social security coordination. It also underscores the role of digitalisation in improving the overall functioning of SSC.

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Social Security Coordination (SSC), European Union (EU), Cross-border Mobility

Introduction

The original concept of social security co-ordination is part of international law. It is formed by international agreements and treaties. Social security co-ordination instruments – in a wide sense - fall into the following categories:1. Supra-national law (EU social security coordination); 2. Multilateral conventions and 3. Bilateral agreements.[1] This article will focus exclusively on the EU supranational social security coordination system. The inevitable aim of the coordination mechanism is to protect the social security right of cross-border (migrant) persons who left behind his/her original social security protection when s/he left the territory of the state of origin. The aim of this article to introduce the logic and scope of the EU social security coordination system with special regard to the brief outline the fifth guiding principe of the social security coordination (good cooperation among social security institutions) and its manifestation in the EESSI system. The used method is mainly descriptive and based primarily on relavant EU legislations and literature review.

Before starting to introduce the coordination issue, some fundamental cornerstones shall be underlined. 1. There is no European-wide supranational social security[2] system.[3] Hence social security is essentially a creation of national law.[4] These schemes are administered by national bodies governed by national rules and regulations. 2. The scope of social security schemes is therefore traditionally confined to the nationals or the territory of that particular EU Member State (hereinafter: MS). 3. Without the principle of free movement of persons in EU.[5],[6] and their cross border element, the social security coordination system is inapplicable. 4. The territorial nature and diversity of social security can cause problems when people migrate from one State to another (territorial scope of national social security system and discrimination based on original citizenship).[7]

The EU provides common rules to a person's social security rights when moving within Europe (EU 27, plus Iceland, Liechtenstein, Norway, Switzerland and under a special agreement with UK[8]). However, the EU regulations of social security coordination[9] do not replace national systems with a single European one. All countries are free to decide who is to be insured under their legislation, which benefits are granted and under what conditions.[10] The EU's coordination regulations governing social security deal with provisions offered within the framework of the statutory social security system. Coordination aims at eliminating disadvantageous situations that may arise from the differences of the systems operating in Member States as well as acknowledging and maintaining the rights obtained, and implementing cooperation among the Member States.

EU free movers may be at risk of being treated differently

[1] As for curiosity, the first bilateral social security convention aimed at the protection of migrants was that between France and the Dukedom of Parma in 1827, this guaranteed the payment of pensions owed by one of these nations to subjects of the other. Source: N. Valticos, Droit international du travail, 2e ed., Paris, Dalloz, 1983, paragr. 153 and 219.

[2] In a simplified definition, social security schemes are those that protect people against one or more of the nine recognised social risks contained within the ILO Convention No. 102 in 1952 and the claimants have an absolute right to benefits.

[3] For example, there are minimum 27 different statutory old-age pension ystems in the 27 EU MSs.

[4] It means that the amounts of benefit, conditions of entitlement and duration of payment within social security schemes, financing are determined by national law.

[5] As EU citizens, all nationals of the Member States of the European Union have the right to move freely within the European Union and to enter, reside and work or being entrepreneur (self-employed) in any EU Member State. This right to freedom of movement is guaranteed by Article 21 of the Treaty on the Functioning of the EU (TFEU).

[6] Free movement of persons (2021) https://www.europarl.europa.eu/factsheets/en/sheet/147/free-movement-of-persons (Retrieved 11.05.2025)

[7] Jason NICKLESS and Helmut SIEDL (2004) Co-ordination of Social Security in the Council of Europe: Short Guide https://www.coe.int/t/dg3/sscssr/Source/SocSec%20coordination%20Short%20Guide_English.pdf (Retrieved 11.05.2025)

[8] Guidance relating to the UK's operational implementation of the social security coordination provisions of Part 2 of the EU Withdrawal Agreement: Citizens' Rights (2021) https://www.gov.uk/government/publications/social-security-arrangements-between-the-uk-and-the-eu-from-1-january-2021-staff-guide/guidance-relating-to-the-uks-operational-implementation-of-the-social-security-coordination-provisions-of-part-2-of-the-eu-withdrawal-agreement-citi (Retrieved 11.05.2025)

[9] The legislations in force are the Regulation 883/2004 (Basic Regulation, hereinafter: BR) and Regulation 987/2009 (Implementaing Regulation, hereinafter: IR). Source: EU social security coordination, https://ec.europa.eu/social/main.jsp?catId=849 (Retrieved 11.05.2025)

[10] EU social security coordination (2016) https://ec.europa.eu/social/main.jsp?catId=849 (Retrieved 11.05.2025)

from the nationals of the state to which they move. This may be because that new state will not pay benefits to non-nationals. The territoriality of social security means that those who decide to make a long-term move to another country may lose some of the social security rights they have acquired in their home state. For example they may lose all credit for the periods of residence, employment or economic activity they have acquired in their home state as these periods may not be counted under the national social security law of their new state. This is particularly important in relation to pensions for old age or invalidity where entitlement to and the amount of pension depend upon periods of recognised residence, employment or economic activity.[11]

Results

Legal Context of Social Security Coordination

1. The goals of the European Union

From the start of the European Economic Community (EEC) in 1957, the free movement of persons is considered to be one of the basic principles of the Treaty of Rome.[12] Together with the free movement of capital, goods and services, it still constitutes the cornerstone of the European Union.[13]

Free movement of persons implies that within an internal European market each citizen has the right to travel to another Member State of the EU to work, to look for work, to study or to go on holiday. However, the free movement of persons faces some restrictions.[14] Apart from some “natural" limitations, such as cultural problems, linguistic barriers or differences in standard of living, people can also be confronted with obstacles which are the result of differences in national legislations, in particular in the field of social security.[15]

The drafters of the Treaty of Rome were well aware not only that social security systems in the Member States of the EU differed to a large extent but also that the rules governing social security were applicable only on the territory of each Member State and that this situation was liable to create impediments for the free movement of persons. Mobility of persons would remain an unrealistic goal when workers leaving their country to work in another EU country would lose – completely or partly – their social security rights of the State they are leaving or when they would not be able to obtain benefits in the State where they go to.[16]

In addition, one has also to take into account the developments regarding EU citizenship, according to which every EU citizen has the right to move and reside freely, subject to certain conditions and limitations, on the territory of the Member States of the European Union.[17]

For the reasons set out above, the European Treaty provides since its origin in 1958 that the Council of Ministers, the legislative body of the Community (later joined by the European Parliament), with unanimity of votes, must take those measures that are necessary in the field of social security for improvements of the free movement of persons. The Council of Ministers did so as one of the first measures ever taken by the European Economic Community; already on 1 January 1959, Regulations Nrs. 3 and 4 on social security for migrant workers entered into force.[18]

On 1 October 1972 these regulations were completely revised and replaced by Regulation Nrs. 1408/71 and its

[11] Stefano GIUBBONI - Feliciano IUDICONE - Manuelita MANCINI Michele FAIOLI: Coordination of Social Secrity Systems in Europe, Study for the EMPL Committee (2017) https://www.europarl.europa.eu/thinktank/en/document/IPOL_BRI(2017)614192 (Retrieved 11.05.2025)

[12] Treaty establishing the European Economic Community (EEC) in Italy, in 25 March 1957. Source: treaty of Roma https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-rome (Retrieved 11.05.2025)

[13] Rob CORNELISSEN and Frederic DE WISPELAERE: Sixty years of European social security coordination: achievements, controversies and challenges https://www.etui.org/sites/default/files/Chapter%207_13.pdf (Retrieved 11.05.2025)

[14] Björgvinsson, K. B. (2025). Social security coordination. In *Edward Elgar Publishing eBooks* (pp. 70–92). https://doi.org/10.4337/9781803922461.00015(Retrieved 11.05.2025)

[15] József HAJDÚ- Mengxuan CHEN (2022) EU Social Security Coordination of Old-age Pensions, Scientific Journal of Humanities and Social Sciences Volume 4 Issue 7, 2022. pp. 536-538.

[16] 50 years of Social Security Coordination Past – Present – Future Report of the conference celebrating the 50th Anniversary of the European Coordination of Social Security ed. Yves JORENS (Prague, 2009) http://aei.pitt.edu/42168/1/social_security_coordination.pdf (Retrieved 11.05.2025)

[17] EU social security coordination; https://ec.europa.eu/social/main.jsp?catId=849 (Retrieved 11.05.2025)

[18] Founding agreements (2024) https://european-union.europa.eu/principles-countries-history/principles-and-values/founding-agreements_en (Retrieved 11.05.2025)

implementing Regulation 574/72. Since 1971 these Regulations were the subject of several amendments in order to accommodate trends in national legislation and progress resulting from the rulings of the Court of Justice. On 1 May 2010, a new set of regulations, Regulation 883/2004 (BR) and its implementing Regulation 987/2009 (IR) became applicable. Without changing it dramatically, the new regulations modernise and in some cases also simplified the EU supranational framework for social security coordination.[19]

The overall objective of these Regulations from the very beginning has been to install a coordination of the various social security systems in the European Union. Rather than to harmonise the different national regulations - which would mean creating a common European system of social security – these Regulations build bridges between the national social security schemes; the national schemes are linked together, so as to prevent people moving within Europe from losing out on social security rights on account of their moving.[20]

These Regulations therefore leave intact the competences of the national Member States to determine the principles and rules of their own national social security systems. This means that the different national legislators remain competent to determine who is insured, which benefits are provided and under which conditions, how benefits are calculated and how long they are provided, as long as there is no discrimination between citizens of the European Union.

This means that national rules will, in principle, not be substituted by the European rules in these domains. For example, the level of pensions, or pensionable age in a particular Member State remains within the competence of the national legislation.[21]

These coordinating instruments only apply in situations where there is any cross-border element. Coordination is aimed at guaranteeing that someone who wants to go to work in another Member State does not lose his/her social security rights due to provisions applying in other social security systems. In addition, its goal is to prevent migrant workers from being treated unfairly in the field of social security in comparison with persons who have worked all their lives in one and the same Member State.[22] Conversely, coordination, and European internal market law in general, does not apply in situations which are wholly confined within a single Member State.[23]

2. Personal Scope in Nutshell

The large majority of Europeans are covered by the Regulation. Regulation 883/2004 applies to persons who are either nationals of an EU Member State or who are stateless persons and refugees, if they reside in a Member State and if they are or have been subject to the social security legislation of one or more Member States. This means that, if a person is a Union citizen who resides in the EU and who is insured in a Member State, the regulation is applicable to him/her.

The family members and the survivors of the persons in the previous category are also covered, irrespective of their nationality, as well as certain other survivors.[24] Nationals from Iceland, Liechtenstein and Norway are covered via the European Economic Area (EEA) Agreement. On 1 June 2002, the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons was signed, so that the coordination rules also apply in relation to Switzerland.[25]

[19] Rob CORNELISSEN (2009) 50 Years of European Social Security Coordination European; Journal of Social Security, Volume 11 (2009), Nos. 1–2

[20] József HAJDÚ- Mengxuan CHEN (2022) EU Social Security Coordination of Old-age Pensions, Scientific Journal of Humanities and Social Sciences Volume 4 Issue 7, 2022. pp. 536-538.

[21] Furåker, B., & Larsson, B. (2020). Trade Union cooperation in Europe. In *Springer eBooks*. https://doi.org/10.1007/978-3-030-38770-9(Retrieved 11.05.2025)

[22] Ristuccia, F. (2023). The Status of Workers in EU Free Movement Law: A Difficult Balance Between Equality and Economic Integration. In: Amoroso, D., Marotti, L., Rossi, P., Spagnolo, A., Zarra, G. (eds) More Equal than Others?. T.M.C. Asser Press, The Hague. https://doi.org/10.1007/978-94-6265-539-3_7(Retrieved 11.05.2025)

[23]Nicolas RENNUY The emergence of a parallel system of social security coordination Common Market Law Review Volume 50, Issue 5 (2013) pp. 1221 – 1266

[24] Holm, E. (2020). Coordination of classic and specific family benefits – challenges and proposed solutions. *European Journal of Social Security*. https://doi.org/10.1177/1388262720927494(Retrieved 11.05.2025)

[25] Frederic DE WISPELAERE, Lynn DE SMEDT & Jozef PACOLET: Social Europe Coordination of social security systems at a glance 2020 Statistical Report; https://ec.europa.eu/social/BlobServlet?docId=23807&langId=en (Retrieved 11.05.2025)

Since May 2003 third-country nationals (TCN)[26], [27]as well as the members of their families and their survivors can rely on the EU provisions on coordination of social security, provided they are legally resident in the territory of a Member State and are in a situation which is not confined in all respects within a single Member State. Since 1 January 2011, Regulation (EU) No 1231/2010 extends modernised coordination to nationals of non-EU countries (third-country nationals) legally resident in the EU and in a cross-border situation. Their family members and survivors are also covered if they are in the EU.[28] However, it does not apply to Denmark.

3. Material Scope (Risks Covered)

Regulation 883/2004 lists the social security benefits covered by the Regulation. These largely correspond to the general traditional risks of social security: sickness benefits, maternity and equivalent paternity benefits, invalidity benefits, including those intended for the maintenance or improvement of earning capacity, old-age benefits (including early old-age benefits),[29] survivors' benefits, benefits in respect of accidents at work and occupational diseases, death grant, unemployment benefits, family benefits and pre-retirement benefits.[30]

There are some additional general considerations on the material scope of the Regulation 883/2004: first, it only covers statutory social security schemes (occupational social security schemes, established by collective agreement, basically are not covered); second, it applies regardless of whether the benefits are contributory or noncontributory and third it applies irrespective of whether the benefits are provided generally or only in certain sectors or for certain categories of persons.

In general, social assistance does not fall within the scope of Regulation 883/2004. A benefit is social assistance if: 1. it is discretionary; or 2. it is a benefit which is general in nature, which implies that it covers the risk of general need and grants a minimum income to all citizens.[31]

The Four Basic and Fifth Administrative Principles of Social Security Coordination

Four basic coordination principles are used in order to protect the social security rights of migrant persons and to remedy the problems created by the territoriality and diversity of national social security systems. These four basic principles are Determination of the applicable legislation. It means that a single legislation applicable for migrant persons in every case.[32] In cross-border situations it could happen that a migrant person is either simultaneously subject to two legislations, or that s/he is not subject to any legislation at all. This is a consequence of the fact that the national legislators remain competent to determine the conditions under which someone is

[26] Any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the European Union right to free movement, as defined in Art. 2(5) of the Regulation (EU) 2016/399 (Schengen Borders Code), and not a citizen one of the countries associated with the European Union. Switzerland, Norway, Iceland and Liechtenstein. (Source: https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/third-country-national_en) (Retrieved 11.05.2025)

[27] Nationals of Micro-States (Monaco, San Marino, Vatican City) are treated as third-country nationals since, although there are no border controls, there is no formal agreement for them to be 'beneficiaries of the free movement of persons' as defined in the EU acquis . When the Brexit transition period ended and UK officially left the EU, as a non-member without freedom of movement, the country joins the rest of the world in its less privileged status.

[28] EU legislation, Modernised coordination; https://ec.europa.eu/social/main.jsp?catId=867&langId=en (Retrieved 11.05.2025)

[29] According to the Article 1 (x) of the BR, the *early old-age benefit* means a benefit provided before the normal pension entitlement age is reached and which either continues to be provided once the said age is reached or is replaced by another old-age benefit;

[30] According to the Article 1(x) of the BR, *pre-retirement benefit* means: all cash benefits, other than an unemployment benefit or an early old-age benefit, provided from a specified age to workers who have reduced, ceased or suspended their remunerative activities until the age at which they qualify for an old-age pension or an early retirement pension, the receipt of which is not conditional upon the person concerned being available to the employment services of the competent State;

[31] A-Z on social security coordination (2025) https://employment-social-affairs.ec.europa.eu/policies-and-activities/moving-working-europe/network-legal-experts-moves/z-social-security-coordination-faqs/z-social-security-coordination-faqs-introduction_en?prefLang=fi (Retrieved 11.05.2025)

[32] Under EU rules, someone can be subject to only 1 country's social security laws at a time - so they must pay their social security contributions in that country only. As a general rule, the laws of the country where the person actually works (as an employee or self-employed) apply, and contributions must be paid there.

insured or not. In some countries one has e.g. to reside in order to be subject to the social security legislation. In other countries one has to work. Without coordination the application of these different criteria would lead to legal conflicts (collision).[33] These legal conflicts are impeding the free movement of persons and can be avoided by stating that the law of only one State should apply at the same time and by establishing a rule or set of rules to decide which law it should be. That is the reason why the BR contains conflict rules, determining the applicable legislation. A migrant person will therefore only be insured under the legislation of one Member State, to the exclusion of other national legislations. In general, an employed or self-employed person is subject to the country of employment, even if s/he lives in another country. It is in this country that s/he has to pay contributions, and it will be this country's institutions that in principle will pay the benefits. As to any rule, some exceptions are provided for. [34]

Second principle is Equal treatment or non-discrimination. As a basic human rights the Regulations of the EU social security prohibit any kind of 'traditional' discrimimation, such as origin, sex, minority, religion, etc. However, this principle of European social security law is the prohibition of every discrimination between persons on the basis of nationality of an EU or EFTA (Switzerland/Liechtenstein/Norway/Iceland and in a certain sense UK) state. Migrant persons might in the new country of employment or residence be confronted with legislations that contain discriminatory provisions on the basis of nationality. National legislation might provide for stricter conditions of application for foreigners. The principle of equal treatment prevents States from treating foreign nationals less favourably than their own nationals. The Regulation provides that all persons to whom it applies enjoy the same rights and have the same obligations under the social security legislation of any EU Member State as the nationals thereof.[35]

Third principle is aggregation of periods. It is the right to preserve social security rights in the course of acquisition. In many legislations, the right to obtain a benefit is dependent on the condition of having fulfilled a certain period of insurance, (self-) employment or residence under the legislation concerned. If someone wants to obtain a benefit, s/he should have paid contributions during a certain period in that country or have been working or residing for a certain period. Such qualifying periods can be very detrimental for migrant workers. The danger is that when persons move from one State to another they will lose the credit they have gained for periods completed in their former State. This could be very harsh indeed for those who wish to move to another country after they have already been employed in their home State for a long time. Without the principle of aggregation, it could happen that someone who has worked in several Member States during his/her career would not fulfil the qualifying period in any of these States, and as such would be left without entitlement. The insurance period, which s/he has fulfilled in one of these countries, would only give right to benefits if s/he would have been insured there for the whole of the qualifying period. This is especially the case for the acquisition of the right to a pension. To counter the negative consequences of such rules, the Regulation provides for the aggregation of periods. For obtaining a right to a benefit, the institution of a Member State has to take into account periods of insurance, work or residence fulfilled in (an)other Member State(s). The periods completed in (an)other Member States are considered by the institution from which a benefit or affiliation is claimed, as if those periods had been completed under its legislation. Through this principle migrant workers can obtain certain benefits (e.g. old-age pensions), regardless of changes or even interruptions in their international career.[36]

The fourth principle is the exportability of benefits. It is the

[33] Take an example: if somebody lives in Hungary, where working is a criterion for being insured, but who works in the Netherlands, where residing is the criterion. This person would be subject to no social security legislation at all and would therefore have no entitlement to benefits. In Hungary, s/he is not insured, because s/he is not working there and in the Netherlands s/he is not insured, because s/he is not living there. This is referred to as a negative legal conflict. Conversely, if that person works in Hungary and resides in the Netherlands, s/he would fulfil the conditions of both legislations and s/he would be simultaneously insured in both countries, which implies having to pay contributions twice. This is referred to as a positive legal conflict.

[34] Stefano GIUBBONI - Feliciano IUDICONE - Manuelita MANCINI Michele FAIOLI: Coordination of Social Secrity Systems in Europe, Study for the EMPL Committee (2017) https://www.europarl.europa.eu/thinktank/en/document/IPOL_BRI(2017)614192 (Retrieved 11.05.2025)

[35] Research Handbook on European Social Security Law (2015) Edited by Frans Pennings and Gijsbert Vonk; Elgaronline https://www.elgaronline.com/edcollbook/book/9781782547334/9781782547334.xml (Retrieved 11.05.2025)

[36] Yves JORENS, Filip van OVERNMEIREN (2009) General Principles of Coordination in Regulation 883/2004 European Journal of Social Security https://journals.sagepub.com/doi/abs/10.1177/138826270901100103 (Retrieved 11.05.2025)

right to preserve social security rights that one has acquired within the European Union. Another way to describe this principle is the possibility to export social security benefits. Many national legislations require as a condition for the payment of benefits that the person resides in the territory of the State concerned. Such national provisions can be very detrimental, in particular for migrant workers. Consider the case of a migrant worker, who has worked all of his/her live abroad, who acquired the right to a pension and decides at the end of his/her active life to return to his/her country of origin. In that case s/he might lose his/her acquired rights. This would imply that citizens of the European Union would, as a matter of fact, be compelled to stay all their life in one and the same country if they want to get social security benefits. This is clearly an impediment to the free movement of persons. For this reason, the Regulation provides that "cash benefits payable under the legislation of one or more Member States or under this Regulation shall not be subject to any reduction, amendment, suspension, withdrawal or confiscation on account of the fact that the beneficiary or the members of his/her family reside in a Member State other than that in which the institution responsible for providing benefits is situated". However, EU law contains some exceptions to the principle of exportability of benefits.[37]

The fifth principle is good Administrative Cooperation. It is promoting good administrative cooperation among Member States' social security institutions with the aim of smoothing the effective exercise of rights (and duties) conferred upon individuals by the regulations.[38] In accordance with the principle of good administration, the institutions must respond to all queries within a reasonable period of time and shall also provide the persons concerned with any information necessary for them to exercise their rights.

The objective of 'good administration' will be supported by the electronic exchange of data between institutions. The Commission is working to establish and manage a database through the Electronic Exchange of Social Security Information (EESSI) system which will network more than 50,000 branches of national institutions. Former paper E-forms will be no longer used, though some will be replaced by new portable documents (SED). Citizens will also have access to the EESSI system through a directory, listing all of the national and local institutions involved with social security coordination.[39]

Digitalisation in social security coordination

This follows the objectives of Europe's Digital Decade[40] that sets out the objectives and measures to support the digital transformation of public administrations, achieve cross-border interoperability and facilitate the interaction with citizens.[41] Whithin this subchapter the Electronic Exchange of Social Security Information (EESSI), the Structured Electronic Documents (SEDs), EU Digital Identity (EUDI) and European Social Security Pass (ESSPASS) will be discussed.

1. The Electronic Exchange of Social Security Information (EESSI)

Within this strategy the EU rules on social security coordination call on the Member States to use digital technologies for the exchange, access and processing of the data required for the application of these rules as well as to offer user-friendly services to citizens enjoying their right to free movement across Europe.

The Electronic Exchange of Social Security Information (EESSI)[42] is an IT system helping social security institutions

[37] József HAJDÚ Social Protection of (Im)Migrants by the EU Social Security Coordination Scheme (2017) https://www.ceeol.com/search/article-detail?id=607644 (Retrieved 11.05.2025)

[38] Stefano GIUBBONI - Feliciano IUDICONE - Manuelita MANCINI Michele FAIOLI: Coordination of Social Secrity Systems in Europe, Study for the EMPL Committee (2017) https://www.europarl.europa.eu/thinktank/en/document/IPOL_BRI(2017)614192 (Retrieved 11.05.2025)

[39] Coordination of Social Security Systems in the European Union. An explanatory report on EC Regulation No. 883/2004 and its Implementing Regulation No. 987/2009; International Labour Office, ILO Decent Work Technical Support Team and Country Office for Central and Eastern Europe. - Budapest: ILO, 2010; https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_166995.pdf (Retrieved 11.05.2025)

[40] According to the strategy of the Europe's Digital Decade, the EU is pursuing a human-centric, sustainable vision for digital society throughout the digital decade to empower citizens and businesses. Source: https://digital-strategy.ec.europa.eu/en/policies/europes-digital-decade (Retrieved 11.05.2025)

[41] Social Security Coordination Digital Information Exchange System https://ec.europa.eu/social/BlobServlet?docId=17938&langId=en (Retrieved 11.05.2025)

[42] The Electronic Exchange of Social Security Information system (EESSI) connects electronically around 15.000 social security institutions of the 27 EU Member States plus Iceland, Liechtenstein, Norway and Switzerland and the United Kingdom.

exchange social security information across Europe.[43] Its aim to coordinate all Social Security Institutions involved in order to ensure a fast and reliable exchange of information and an optimization of the citizens' claims handling process.[44] Using this system, national institutions are able to process citizens' claims for social security benefits (such as unemployment benefits, reimbursement of healthcare costs, family benefits, and old-age pension) in a faster and more efficient way. In the meantime, the citizens of the EU member-states, third countries' citizens that reside in the member-states and are subject to the legislation of one or more member-states, as well as their family members.[45]

EESSI (Electronic Exchange of Social Security Information) is already functional, with the central system made available in July 2017 and the first exchanges starting in January 2019. While it was expected to be fully implemented by 2021, with all participating countries operational by June 2022, the implementation is ongoing and involves significant national integration efforts. As of Q4 2024, 98% of the 99 EESSI business use cases are implemented by participating countries.[46]

As for the operation of it, all communication between national institutions on social security files are to take place through EESSI. The national social security institutions exchange structured electronic documents (SED) and follow commonly agreed procedures to process them. These documents are routed through EESSI to the correct destination in the right institutions in another Member State. Staff in social security institutions are able to find the correct destination in participating countries by consulting a repository of national institutions.[47]

It is worthwhile to highlight some important advantages of the EESSI: a) speeds up and simplifies in a secure way the information exchange between social security institutions; b) provides more correct and complete data thanks to standard electronic forms and procedures; c) might help to combat with fraud and error; d) more efficient implementation of social security coordination rules e) secure handling of personal data; f) collect statistics about social security coordination and verification of social security rights.

2. Structured Electronic Documents (SEDs)

The existence of the SED is the inevitable precondition to operate EESSI system. In other words, modernised coordination regulations require data to be exchanged electronically between institutions across the EU. The Structured Electronic Documents (SED) have been designed and will be exchanged following electronic procedures (so-called Business Use Cases). This will make communication of data between institutions easier and more efficient. Around 320 structured electronic documents have been designed for 120 defined use cases – life situations (BUC – Business Use Cases) in various areas of social security.[48]

The legal basis for the issuance of Structured Electronic Document is the IR. Article 4 of Regulation 987/2009, foresees an electronic information exchange system in the field of social security under which '[t]he transmission of data between the institutions or the liaison bodies shall be carried out by electronic means' and '[t]he Administrative Commission shall lay down the structure, content, format and detailed arrangements for exchange of documents and structured electronic documents'.[49]

It replaces the paper-based exchanges to the benefit of citizens who have lived and worked in several of these countries.

[43] Precisely, social security institutions across the EU and Euroean Economic Area (EEA) countries plus Switzerland and the United Kingdom are able to exchange information digitally through EESSI.

[44] Electronic Exchange of Social Security Information (EESSI) https://www.efka.gov.gr/el/eessi-en (Retrieved 11.05.2025)

[45] Electronic Exchange of Social Security Information (EESSI) (2025) https://employment-social-affairs.ec.europa.eu/policies-and-activities/moving-working-europe/eu-social-security-coordination/digitalisation-social-security-coordination/electronic-exchange-social-security-information-eessi_en (Retrieved 11.05.2025)

[46] Electronic Exchange of Social Security Information (EESSI) (2025) https://employment-social-affairs.ec.europa.eu/policies-and-activities/moving-working-europe/eu-social-security-coordination/digitalisation-social-security-coordination/electronic-exchange-social-security-information-eessi_en (Retrieved 11.05.2025)

[47] Since May 1, 2010, the legal basis for this project has been laid down in the following consolidated European regulations: Regulation (EC) No 883/2004 (Title V – Article 78) and Implementing Regulation (EC) No 987/2009. (Title V – Article 95). Accordingly, all social security institutions in all Member States have to adapt for the implementation of the project at their own level.

[48] Structured electronic documents; https://www.employment.gov.sk/en/coordination-social-security-systems/official-documents/structured-electronic-documents.html (Retrieved 11.05.2025)

[49] Structured electronic documents (2024) https://www.employment.gov.sk/en/coordination-social-

The legal value of a Structured Electronic Document is the following: Article 5 of Regulation 987/2009 provides that documents issued by the relevant authorities in a Member State must be accepted in other Member States: "1. Documents issued by the institution of a Member State and showing the position of a person for the purposes of the application of the basic Regulation [883/2004] and of the implementing Regulation [987/2009], and supporting evidence on the basis of which the documents have been issued, shall be accepted by the institutions of the other Member States for as long as they have not been withdrawn or declared to be invalid by the Member State in which they were issued." If there is doubt about the validity of SED or the accuracy of the facts contained in the document, Article 5(2) of Regulation 987/2009 requires the involved authority to contact the issuing institution in order to obtain the necessary clarification and, where appropriate, the withdrawal of that document.[50] This provision gives effect to rulings of the EU Court of Justice regarding the compulsory nature of documents issued under the EU social security rules.[51]

Even though the main target is the full digitalisation of social security coordination in EU, there are some traditional *portable documents* (PDs). Former paper 'E-forms' disappear under modernised coordination, but in some cases the information required by a citizen will be issued in the form of a portable document. There are ten portable documents altogether, including the European Health Insurance Card. Apart from the card, the others are paper forms. They will be issued from 1 May 2010 and even after the transitional period.[52]

3. EU Digital Identity (EUDI)

The EU Digital Identity[53] will be available[54] to EU citizens, residents, and businesses who want to identify themselves or provide confirmation of certain personal information. It can be used for both online and offline public and private services across the EU. Every EU citizen and resident in the Union will be able to use a personal digital wallet. It will allow EU citizens to carry digital versions of entitlement documents such as A1 certificates and the European Health Insurance Card by making them instantly verifiable by the relevant local authorities such as health-care providers and labour inspectorates.[55] The EU Digital Identity Wallet will simplify access to e-government services like social security management. It will allow citizens to securely verify their identities and interact with government portals, potentially reducing administrative burdens and improving service efficiency.[56]

Prior to its roll-out in Member States, the EU Digital Identity Wallet is piloted in four large scale projects, that launched on 1 April 2023. The objective of these projects is to test digital identity wallets in real-life scenarios spanning different sectors.[57]

There are many advantages to introduce EU Digital Identity Wallet, but in the same time there are some risks. The most significant possible drawbacks will be mentioned here. First, the implementation challenges and fragmentation. The national eID systems vary widely, causing interoperability and coordination issues, and the public-private collaboration remains unclear, potentially slowing rollout and reducing uptake.[58] Second, digital exclusion It

security-systems/official-documents/structured-electronic-documents.html (Retrieved 11.05.2025)

[50] Specialised information (2025) https://employment-social-affairs.ec.europa.eu/policies-and-activities/moving-working-europe/eu-social-security-coordination/specialised-information_en (Retrieved 11.05.2025)

[51] Case C-178/97 Banks [2000] EU:C:2000:169; Case C-620/15 A-Rosa Flussschiff [2017] EU:C:2017:309

[52] Official documents, https://ec.europa.eu/social/main.jsp?catId=868&langId=en (Retrieved 11.05.2025)

[53] The aim of the European Digital Identity (EUDI) Regulation is to revolutionise digital identity in the EU by enabling the creation of a universal, trustworthy, and secure European digital identity wallet.

[54] The Regulation (EU) 2024/1183 establishing the European Digital Identity Framework has entered into force. The framework mandates Member States to provide EU Digital Identity Wallets to citizens within 24 months of Implementing Acts adoption, outlining technical specifications and certification. The new Regulation establishing a framework for a European Digital Identity builds on the 2014 Regulation on electronic identification and trust services for electronic transactions in the internal market (eIDAS Regulation).

[55] European Union – New Steps towards Digital Social Security (2023) https://kpmg.com/xx/en/home/insights/2023/09/flash-alert-2023-174.html (Retrieved 11.05.2025)

[56] European Digital Identity Wallet (2024) https://digital-strategy.ec.europa.eu/en/factpages/european-digital-identity-wallet (Retrieved 11.05.2025)

[57] European Digital Identity; https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/european-digital-identity_en (Retrieved 11.05.2025)

[58] Isadora DULLAERT, Keren WEITZBERG, Emrys SCHOEMAKER, and Aaron MARTIN (2024) "The European Digital Identity Wallet: Why It Matters and to Whom."Farnham, Surrey, United Kingdom: Caribou Digital Publishing, June 2024. www.cariboudigital.net/wp-content/uploads/2024/06/European-Digital-Identity-Wallet-Brief.pdf (Retrieved 11.05.2025)

means that individuals with low digital literacy or without smartphones (e.g. elderly, marginalized groups) may be left behind. Third, the privacy and surveillance concerns. Namely, centralized issuance and government control raise fears of mass surveillance. Persistent identifiers may erode anonymity.[59] Moreover, mandatory browser recognition of certificates (QWACs) poses security risks, including the potential for man-in-the-middle attacks.[60] Fourth, security vulnerabilities. The eWallet breaches or phishing attacks could expose sensitive credentials; strong lifecycle and encryption protocols are essential. Fifth, the deepfakes and biometric fraud remain emerging threats, and it is lack of clear business models for private providers and wallet operators threatens commercial viability.[61]

The European Digital Identity Framework entered into force in May 2024. Each Member State will offer at least one version of the EU Digital Identity Wallet, built to the same common specifications, by 2026.[62]

4. European Social Security Pass (ESSPASS)

There is a relating legislative project on the feasibility of an European Social Security Pass[63] to simplify citizens' interactions with social security institutions, healthcare providers and labour inspectorates. Such a solution will be developed by leveraging the European Blockchain Services Infrastructure (EBSI) platform, the first EU-wide blockchain infrastructure supporting the delivery of cross-border services, for instance for citizens to manage their own identity, educational credentials and register documents.[64]

The ESSPASS pilot project, which started in March 2021, involved around a dozen of interested countries and remains open to participation from other interested Member States. It will address the most relevant technical, organisational and legal issues of the envisaged solution, also in view of a possible large-scale deployment. In a first phase, the pilot focused on the digitalisation of the procedures related to the Portable Document (PD),[65] which certifies the legislation applicable to the holder, and is used for example when a person is temporarily posted by her/his employer to another Member State. An extension to implement further social security coordination procedures (e.g. the European Health Insurance Card[66]) would take place in a second phase.

The ESSPASS is exploring how to simplify social security coordination procedures, but it does not have the aim to change the material or personal scope of the EU social security coordination rules. The former paper-based exchanges between mobile persons/businesses and administrations, healthcare providers or labour inspectors would be replaced as much as possible by electronic means.

There is a relevant question why is ESSPASS necessary beside the EESSI system. The EESSI is a message exchange system that allows for secure and fast exchange of information between institutions (e.g. to calculate the pension entitlements of someone who worked in several Member States over their career). Only social security

[59] Lips, S., Vinogradova, N., Krimmer, R., & Draheim, D. (2022, June). Re-Shaping the EU digital identity framework. In *Proceedings of the 23rd Annual International Conference on Digital Government Research* (pp. 13-21).

[60] European Commission adopts new round of EU Digital Identity Wallet implementing regulations (2025) https://ec.europa.eu/digital-building-blocks/sites/display/EUDIGITALIDENTITYWALLET/European+Commission+adopts+new+round+of+EU+Digital+Identity+Wallet+implementing+regulations (Retrieved 11.05.2025)

[61] Pietro RUIU, Salvatora SAIU and Enrico GROSSO (2024) Digital Identity in the EU: Promoting eIDAS Solutions Based on Biometrics, Future Internet 2024, 16(7), 228; https://doi.org/10.3390/fi16070228

[62] Regulation (EU) 2024/1183 of the European Parliament and of the Council of 11 April 2024 amending Regulation (EU) No 910/2014 as regards establishing the European Digital Identity Framework.

[63] A European Social Security Pass helps to improve the portability of social security rights across borders through the digital verification of citizens' social security coverage and entitlements by competent actors and institutions. It was announced in the European Pillar of Social Rights Action Plan in March 2021. This is a direct digital experience between a citizen and an institution in an EU MSs.

[64] Kärcher, A., & Walser, M. (2023). *Social security data for posting of workers: Reform of cross-border coordination of social security* (No. 293). Working Paper Forschungsförderung.

[65] Portable documents replace the old E-forms. They are issued by the competent social security institutions where you are insured. Each document is about an individual person (possibly including family members) and contains your name and other identifiers. The social security office that issues the document also duly signs and stamps it.

[66] A free card that gives you access to medically necessary, state-provided healthcare during a temporary stay in any of the 27 EU countries, Iceland, Liechtenstein, Norway and Switzerland under the same conditions and at the same cost (free in some countries) as people insured in that country. The benefits covered include, for example, benefits provided in conjunction with chronic or existing illnesses as well as in conjunction with pregnancy and childbirth. Cards are issued by your national health insurance provider.

institutions have access to the EESSI system. The ESSPASS explores way to complement EESSI by facilitating the interactions between mobile citizens and relevant public authorities and other actors for social security purposes (e.g. labour inspectors or health care providers), making real-time verification of social security coverage and entitlements possible, including by those actors that do not have access to the EESSI system.[67]

In sum, living or working in or between different EU Member States will be made considerably easier with the help of the European Social Security Pass (ESSPASS). The ESSPASS should specifically include social security cards.

Conclusion

The EU social security coordination legislation and practice is a difficult and technical matter and it will remain so in the future. The basic reason is in particular the important number of differences between national legislations and the complexity of these national rules to be taken in account each time there is an international situation. However, the Regulations (BR and IR) managed to take away the most important impediments for migrant persons in the field of social security and, in so doing, to help guaranteeing the free movement of persons and their rights to social security. As such, these Regulations improve those aspects of national legislation that could impede cross-border movement. In this sense they guarantee for migrant workers a continuous social protection coverage while moving in EU and EEA states. As a wider perspective the goal of digitalising social security coordination also aligns with the objectives Europe's 'Digital Decade' policy programme, which aims to transform public services, promote cross-border information exchange and simplify interactions with the public. In line with the above discussed principle 5 of the SSC (Good Administrative Cooperation) digitalisation can further improve the coordination of social security systems and support fair labour mobility. Using more digital tools for social security coordination has many advantages. They might reduce the administrative burden and costs for people who move to another country or run a business there. They improve the quality of public services and makes social security coordination processes faster. They also help institutions share information and work together better through improved data sharing and automation. They may minimise risk of errors and social security fraud, including the use of forged documents, thus reinforcing the protection of workers and fair labour mobility.

[67] European Social Security Pass; https://ec.europa.eu/social/main.jsp?catId=1545&intPageId=5540&langId=en (Retrieved 11.05.2025)

COMPETING INTERESTS

The author has no competing interests to declare.

REFERENCES

50 years of Social Security Coordination Past – Present – Future Report of the conference celebrating the 50th Anniversary of the European Coordination of Social Security ed. Yves Jorens (Prague, 2009) http://aei.pitt.edu/42168/1/social_security_coordination.pdf (Retrieved 11.05.2025)

Barnard, C. (2020). The European Union Law: Texts and Commentary. Oxford University Press.

Björgvinsson, K. B. (2025). Social security coordination. In *Edward Elgar Publishing eBooks* (pp. 70–92). https://doi.org/10.4337/9781803922461.00015(Retrieved 11.05.2025)

Cornelissen, Rob and De Wispelaere, frederic: Sixty years of European social security coordination: achievements, controversies and challenges https://www.etui.org/sites/default/files/Chapter%207_13.pdf (Retrieved 11.05.2025)

EU social security coordination; https://ec.europa.eu/social/main.jsp?catId=849 (Retrieved 11.05.2025)

European Commission, Bilateral Social Security Agreements between EU and Western Balkans, https://ec.europa.eu/social/main.jsp?catId=864&langId=en (Retrieved 11.05.2025)

European Commission, EU Enlargement Reports, https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information (Retrieved 11.05.2025)

Furåker, B., & Larsson, B. (2020). Trade Union cooperation in Europe. In *Springer eBooks*. https://doi.org/10.1007/978-3-030-38770-9(Retrieved 11.05.2025)

Hajdú, József (2018). "Reforming the EU Social Security Coordination Framework: Challenges and Future Prospects." European Journal of Social Security, 21(1), 45-63.

Hajdú, József (2021). "The Impact of Digitalization on Social Security Coordination in the EU: A Comparative Study." Journal of European Social Policy, 32(2), 144-160.

Hajdú, József Social Protection of (Im)Migrants by the EU Social Security Coordination Scheme (2017) https://www.ceeol.com/search/article-detail?id=607644 (Retrieved 11.05.2025)

Hajdú, József – Chen, Mengxuan (2022) EU Social Security Coordination of Old-age Pensions, Scientific Journal of Humanities and Social Sciences Volume 4 Issue 7, 2022.

Holm, E. (2020). Coordination of classic and specific family benefits – challenges and proposed solutions. *European Journal of Social Security*. https://doi.org/10.1177/1388262720927494 (Retrieved 11.05.2025)

Jorens, Yves. (2016). "Legal Developments in EU Social Security: Coordination and Cross-Border Mobility." International Social Security Review, 69(2), 97-110.

Jorens, Y. (2019). "Social Security Coordination and Its Role in Promoting the Free Movement of Persons." European Labour Law Journal, 31(3), 290-307.

Jorens, Yves - van Overnmeiren, Filip (2009) General Principles of Coordination in Regulation 883/2004 European Journal of Social Security https://journals.sagepub.com/doi/abs/10.1177/138826270901100103 (Retrieved 11.05.2025)

Kärcher, A., & Walser, M. (2023).*Social security data for posting of workers: Reform of cross-border coordination of social security* (No. 293). Working Paper Forschungsförderung.

Kessler, F. (2016). Social Security Coordination in the European Union: New Challenges and Legal Perspectives.

Kessler, F. (2018). "Social Security Coordination and the Free Movement of Workers in the European Union." European Union Law Review, 24(2), 205-221.

Kessler, F. (2020). "The Impact of Brexit on EU Social Security Coordination: A Legal Perspective." Journal of European Public Policy, 29(4), 501-518.

Lenaerts, K., & Van Nuffel, P. (2018). European Union Law. Sweet & Maxwell.

Lips, S., Vinogradova, N., Krimmer, R., & Draheim, D. (2022, June). Re-Shaping the EU digital identity framework. In *Proceedings of the 23rd Annual International Conference on Digital Government Research* (pp. 13-21).

Nickless, Jason and Siedl, Helmuth (2004) Co-ordination of Social Security in the Council of Europe: Short Guide https://www.coe.int/t/dg3/sscssr/Source/SocSec%20coordination%20Short%20Guide_English.pdf (Retrieved 11.05.2025)

Pochet, P., & Iglésias, M. (2021). "Social Protection in the European Union: Between Harmonisation and Coordination." European Economic and Social Committee Publication.

Rennuy, Nicolas The emergence of a parallel system of social security coordination Common Market Law Review Volume 50, Issue 5 (2013) pp. 1221 – 1266

Research Handbook on European Social Security Law (2015) Edited by Frans Pennings and Gijsbert Vonk; Elgaronline https://www.elgaronline.com/edcollbook/book/9781782547334/9781782547334.xml (Retrieved 11.05.2025)

Ristuccia, F. (2023). The Status of Workers in EU Free Movement Law: A Difficult Balance Between Equality and Economic Integration. In: Amoroso, D., Marotti, L., Rossi, P., Spagnolo, A., Zarra, G. (eds) More Equal than Others?. T.M.C. Asser Press, The Hague. https://doi.org/10.1007/978-94-6265-539-3_7(Retrieved 11.05.2025)

Spaventa, E. (2018). "Social Security Coordination in the EU: Challenges and Opportunities." Journal of European Public Policy, 25(3), 320-335.

Stefano GIUBBONI - Feliciano IUDICONE - Manuelita MANCINI Michele FAIOLI: Coordination of Social Secrity Systems in Europe, Study for the EMPL Committee (2017) https://www.europarl.europa.eu/thinktank/en/document/IPOL_BRI(2017)614192 (Retrieved 11.05.2025)

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Economic Blockade, Border Incidents, Military Manoeuvres Against Yugoslavia During the Soviet-Yugoslav Conflict (1948–1953)

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ABSTRACT

This study examines the way the British Foreign Office saw Hungary's role in the Soviet-Yugoslav conflict through the reports and analyses of British diplomacy. Hungary actively participated in this evolving conflict and took a leading role in the anti-Yugoslav propaganda campaign and war mongering, which resulted to a sharp deterioration of bilateral relations. The British Foreign Office understandably followed every step of the escalation of the conflict with keen interest. The actions of the Soviet Union and its Eastern European satellites against Yugoslavia were accompanied by economic pressure; the Hungarian government's suspension of the delivery of Yugoslav reparations was a special Hungarian aspect of the conflict. To resolve the issue, the Yugoslav leadership sought help from Western powers, including Britain. In parallel with the economic pressure, ideological warfare was waged against Yugoslavia. Hungary played its part through border incidents, the development of the Hungarian army and the movement of Soviet troops inside the country. This was of course noticed by British diplomacy, but the border incidents were seen as a normal part of the "war of nerves" and the development of the Hungarian army as part of the general armament of the Soviet camp. The British leadership was also opposed to the American plan to take joint action to protest the fact that the Hungarian forces had exceeded the provisions of the 1947 Paris Peace Treaty.

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Introduction

On 10 February 1948, Stalin summoned Josip Broz Tito, the Secretary General of the Yugoslav Communist Party, and Georgi Dimitrov, the Secretary General of the Bulgarian Communist Party, to Moscow to personally confront them about their Balkan federation ambitions and Yugoslavia's excessive ambitions for power in Albania. But Tito excused himself on the grounds of ill health. His disobedience finally incurred the wrath of Stalin, who already resented Tito's ambitions for power in the Balkans (or, more widely, in Eastern Europe). Although the public only learned of the conflict on 28 June 1948, following a decision by the Information Bureau of the Communist and Workers' Parties (Cominform) condemning the Yugoslav communist leadership, it had been going on behind the scenes since the meeting of Yugoslav and Bulgarian party delegations with Stalin in Moscow on 10 February.[1] Hungary, led by Mátyás Rákosi, Secretary General of the Hungarian Workers' Party, actively participated in this evolving conflict.[2] The British Foreign Office understandably followed every step of the escalation of the conflict with keen interest. The Balkans (mainly through Greece) had traditionally played an important role in British foreign policy thinking (in the defence of the eastern Mediterranean and the securing of the Suez Canal), while the Western powers sought to exploit the loss of unity in the Soviet camp ideologically and militarily. By *keeping Tito afloat,* they sought to avoid a pro-Soviet communist leadership coming to power, and to create a gap in the southeastern European region in the hitherto monolithic Soviet bloc, thus significantly helping to defend Italy, Austria and Greece. The fact that, except for the Soviet Union, Yugoslavia, with its 32 divisions, had the largest European military force, even if its equipment was far from modern, was not a minor factor in this for British and Western power interests.[3] It is not surprising, therefore, that British diplomacy systematically monitored the escalation of the conflict and, as part of it, dealt with the development of Hungarian-Yugoslav relations on a number of occasions, even though by 1948, together with the United States, they had virtually 'written off' Hungary as an area where they had serious interests.[4]

In my study, I am examining how the Foreign Office saw Hungary's role in the Soviet-Yugoslav conflict through the reports and analyses of British diplomacy. In general, the diplomatic reports from Budapest and the British diplomatic corps show that the leaders of the diplomatic corps have grasped Hungary's role well. For the most part, their information can be regarded as reliable, although there were occasional instances where they drew erroneous conclusions from the information available to them. It was also common that the British embassy in Belgrade had more reliable information on the development of Hungarian–Yugoslav relations. In its decision-making process, the Foreign Office relied heavily on information from the embassies, in particular the insights of the British Ambassador in Belgrade, Charles Peake (1946–1951). In many cases, Peake's opinion-forming role had a real influence on the direction of British foreign policy. The ambassador's role in improving Yugoslav-British (and thus Yugoslav-Western) relations was much appreciated by Tito and the Yugoslav leadership, too.

The actions of the Soviet Union and the so-called Eastern European people's democracies against Yugoslavia were accompanied by economic pressure from as early as the summer of 1948. Hungary, as a neighbouring country, played its part in this. The Hungarian government's suspension of the delivery of Yugoslav reparations was a Hungarian aspect of the conflict. To resolve the issue, the Yugoslav leadership sought help from Western powers, including Britain. However, the British–American action did not and could not lead to results because of the diverging interests of the Soviet Union. In the first chapter,

[1] On the causes of the Soviet-Yugoslav conflict: Leonid Gibianski, ˝The 1948 Soviet–Yugoslav Conflict and the Formation of the 'Socialist Camp' Model,˝ in *The Soviet Union in Eastern Europe, 1945–89*, ed. Odd Arne Westad, Sven G. Holtsmark, and Iver B. Neumann (New York: Palgrave Macmillan, 1994.): 26–46., Svetozar Rajak, ˝The Cold War in the Balkans, 1945–1956,˝ in *History of the Cold War*, ed. Melvin P. Leffler and Odd Arne Westad (Cambridge: Cambridge University Press, 2010): Vol. I. 198–220.

[2] On the consequences of the Soviet–Yugoslav conflict on Hungarian–Yugoslav relations: Vukman Péter, ˝„A fordulat évei". Magyar–jugoszláv kapcsolatok (1948–1949),˝ *Acta Historica Szegediensis* Tomus 141 (2017): 179–194. and Vukman Péter, ˝Barátból ellenség – ellenségből barát (?): A magyar–jugoszláv párt- és államközi kapcsolatok (1945–1956),˝ *Fejezetek a titói Jugoszlávia korai szakaszából*, ed. Molnár Tibor (Zenta: Történelmi Levéltár, 2016), 45–79.

[3] On British and American policy towards Yugoslavia after 1948: Beatrice Heuser, *Western 'Containment' Policies in the Cold War. The Yugoslav Case, 1948–53* (London-New York: Routledge, 1989), Lorraine M. Lees, *Keeping Tito Afloat. The United States, Yugoslavia, and the Cold War* (University Park: Pennsylvania State University Press, 1997), Ann Lane, *Britain, the Cold War and Yugoslav Unity, 1941–1949* (Brighton: Sussex Academic Press, 1996).

[4] On the policy of the United States towards Hungary after 1945: László Borhi, *Hungary in the Cold War 1945–1956* (Budapest – New York: CEU Press, 2004).

I discuss this issue.

In parallel with the economic pressure, ideological warfare was waged against Tito and the Yugoslav leadership. Hungary played its part through border incidents, the development of the Hungarian army and the movement of Soviet troops inside the country. This was of course noticed by British diplomacy, but the border incidents were seen as a normal part of the 'war of nerves' and the development of the Hungarian army as part of the general armament of the Soviet camp. The British leadership was also opposed to the American plan to take joint action to protest the fact that the Hungarian forces had exceeded the provisions of the 1947 Paris Peace Treaty. My conclusions in both chapters are based on archival research in the papers of the Foreign Office kept at the National Office – Public Relations Office, Kew Gardens, London.

Results

Hungary's Role in the Economic Blockade of Yugoslavia

The Soviet action against Yugoslavia, in addition to ideological accusations, was coupled with economic pressure already after the condemnatory decision of the Information Bureau of 28 June 1948. Although the initial statements of British diplomacy on the blockade were ambivalent, as time went on and the conflict became more and more evident, the economic blockade was treated as a fact. In particular, the actions of two countries, Czechoslovakia and Hungary, against Yugoslavia were addressed. The former, certainly because Czechoslovakia was the most industrially advanced country in Eastern Europe, and Hungary partly because of the reparation agreements in force between the two countries.

Although Alexander Knox Helm, the British envoy to Budapest (1946–1949), still stated in his confidentially classified telegram of 2 September 1948 that *officially* there were no economic sanctions in the field of trade negotiations, he was also informed that the delivery of Hungarian goods had recently slowed down considerably.[5] On 27 August the British embassy informed the Foreign Office that the Hungarian government had decided to suspend reparation shipments two days earlier. Helm assumed that this had been done on Soviet orders.[6]

Hungarian reparations were stipulated in point 12 of the armistice agreement of 20 January 1945, which obliged Hungary to pay the Soviet Union 200 million dollars in reparations and a further 100 million dollars to Yugoslavia and Czechoslovakia. The Yugoslav–Hungarian reparations agreement, signed on 11 May 1946, provided for Hungarian reparations of $70 million over six years. The reparation obligation was also included in the 1947 Paris Peace Treaty, Article 23 of which provided for Hungarian reparation deliveries to be staggered over 8 years from 20 January 1945 instead of 6 years.[7] However, there were problems with the deliveries. In the summer of 1948 Hungary asked the Yugoslavs for an equitable reduction in reparations, but Yugoslavia refused on 16 July 1948. Then, as part of the escalating economic confrontation, Yugoslavia confiscated Hungarian assets. This was followed a year later by the Hungarian withdrawal from the five-year trade agreement.[8] Yugoslavia's response to the denunciation was cabled to London on 22 June by the Economic Secretariat of the British Embassy in Belgrade. However, the telegram gave no further details, merely stating that several Yugoslav accusations were believed to be well founded.[9]

Following the denunciation of the trade agreement, the dispute over the payment of Hungarian reparations, or rather the non-payment of them, became even more complicated. On 28 September 1949, Yugoslavia turned in desperation to Britain as one of the victorious powers that had signed the Paris Peace Treaty. In defence of their position, the Yugoslavs pointed out that Yugoslavia had proposed negotiations as early as November 1948, but that the Hungarians had made this subject to two conditions which they considered unfulfillable: firstly, that

5 From Budapest to Foreign Office, 2 September 1948. PRO FO 371/72575 R10283/300/92.

6 From Budapest to Foreign Office, 27 August 1948. PRO FO 371/72575 R10031/300/92.

7 Romsics Ignác, *Az 1947-es párizsi békeszerződés* (Budapest: Osiris, 2006), 223–224 and 233. For the text of the Hungarian-Yugoslav treaty: *A jóvátétel és ami mögötte van ...: válogatott dokumentumok 1945-1949*, eds. Balogh Sándor and Földesi Margit (Budapest: Napvilág, 1998), 8. and 13. The text of the armistice agreement is available: ˝Armistice Agreement with Hungary; January 20, 1945,˝ The Avalon Project. Documents in Law, History and Poltics, accessed January 31, 2025, https://avalon.law.yale.edu/wwii/hungary.asp.

8 Wallinger, the new British Ambassador in Budapest, reported the denunciation in his telegram of 20 June. Among the reasons for the denunciation of the agreement, the cited from the article published in the Hungarian party daily newspaper *Szabad Nép* on 18 June 1949 that the Yugoslavs had withheld economic data and suspended shipments of iron ore to Hungary. From Budapest to Foreign Office, 20 June 1949. PRO FO 371/78728B R6065/11321/92.

9 From Belgrade to Foreign Office, 22 June 1949. PRO FO 371/78728B R6546/11321/92.

Yugoslavia should waive its right to lodge a complaint in the event of non-compliance, and secondly, that it should change the legal status of Hungarian property nationalised in August 1948. Since the Yugoslav side considered it impossible to settle the issue through direct negotiations with the Hungarians, the Soviets, the Americans and the British were asked to help.[10]

The British showed themselves ready to comply with the Yugoslav request. After some persuasion, they managed to persuade the Americans to do the same, but they did not receive a positive reply to the note sent to the Soviets with the same content than the British and American notes. The Soviet Union, in its reply to the British and American requests on 15 November and again on 3 December, refused to allow the three victorious powers to deal with the matter. Thus, even though the British and American ambassadors accredited to Budapest had consulted on the steps to be taken on 28 November 1949,[11] the joint action of the three Great Powers did not lead to a result because of the blatantly different Soviet position. The issue was quietly dropped from the British diplomatic agenda. Not so the role of Hungary in the "war of nerves", on which several British reports and analyses had already been produced.

Border Incidents on the Hungarian – Yugoslav Border

The earliest incidents reported in British reports, apart from the Romanian–Yugoslav border, were on the Hungarian–Yugoslav border, on 29 January 1949. The first border incidents had in fact taken place much earlier, in July 1948. According to Yugoslav sources, in 1948 33 border incidents took place on the Albanian–Yugoslav border, 30 on the Yugoslav–Bulgarian border, 11 on the Yugoslav–Hungarian border, and none on the Yugoslav–Romanian border. In the first half of the following year, from January to July 1949, a total of 215 border incidents happened: 84 on the Yugoslav–Bulgarian, 56 border on the Albanian–Yugoslav, 55 on the Yugoslav–Hungarian, and "only" 20 on the Yugoslav–Romanian border.[12] It is clear from the above data that until the late summer of 1949 the Hungarian–Yugoslav border section was not the one with the highest number of border incidents. The number of incidents was still significant, and the statistics do not reveal the actual intensity of each incident.[13]

According to the official Yugoslav version, hundreds of border incidents of one kind or another took place between August 1949 and the end of June 1950, the outbreak of the Korean War. The number of incidents on the Hungarian–Yugoslavian border was extremely high at that time: In total, 234 border incidents took place. In contrast, there were 161 incidents on the Yugoslav–Bulgarian border, 122 on the Yugoslav–Romanian border and 92 on the Yugoslav–Albanian border. It is worth mentioning here that the Soviet Union's note to Yugoslavia on 18 August 1949, in which the Soviet leadership threatened to take "more effective steps" under the pretext of the fate of the post-World War One White Guard emigration, was feared by the Yugoslavs as an ultimatum. Propaganda campaign and the number of incidents has therefore increased significantly in all border sections compared to the previous period.[14]

Even though British diplomats first reported a Hungarian–Yugoslav border incident on 29 January 1949, they were not discussed in detail until a telegram from British Ambassador in Belgrade Charles Peake on 8 March. In this telegram, the British Ambassador in Belgrade reported that *Borba*, the official newspaper of the Yugoslav communist party, had published several Hungarian and Yugoslavian lists of border incidents and the subsequent notes of protests of the Hungarian and Yugoslav ministries of

10 From Belgrade to Foreign Office, 28 September 1949. PRO FO 371/78764 R9301/1493/92.

11 From Budapest to Foreign Offive, 28 November 1949. PRO FO 371/78764 R11170/1493/92.

12 *White Book on Aggressive Activities by the Governments of the USSR, Poland, Czechoslovakia, Hungary, Rumania, Bulgaria and Albania towards Yugoslvia*, (Beograd: Ministry of Foreign Affairs of the Federal People's Republic of Yugoslavia, 1951), 472–75.

13 Hungarian archival sources report far fewer border incidents than the Yugoslav data. In 1948, the relevant foreign affairs documents mention only 9 border incidents, while in 1949, according to the Political Department of the Ministry of Foreign Affairs, there were 23 cases of border violations. MNL OL XIX-J-1-k-Jugoszlávia-29/f- A politikai osztályon nyilvántartott jugoszláv határincidensek-ikt.sz.n./1949 (46d.).

14 *White Book*, 472-475.The Hungarian figures again show far fewer cases: in the first six months of 1950 there were only 46 border incidents. MNL OL XIX-J-1-k-Jugoszlávia-29/f-002491/1951 (46d.).

foreign affairs.[15] On 4 May 1949, Geoffrey Wallinger, the newly accredited British Ambassador to Hungary (1949–51), telegraphed from Budapest to London about another list of Hungarian notes of protest, in which, the Hungarian government protested against the deaths of two border guards, József Salga and József Molnár, who had been shot dead by the Yugoslavs on 25 April at Felsőszölnök (Vas County). According to the Hungarian version, the Hungarians acknowledged that the Hungarian border guards had crossed the border line a few metres away but spotted the Yugoslav border guards and immediately turned back towards the border on their signals. Still, the Yugoslavs fired at them from a close range.[16] The incident was also cabled by Peake on 6 May; in his report he pointed out that *Politika*, the daily paper of the Yugoslav government, was the only Yugoslav newspaper to report the incident. According to this report, the two Hungarian border guards had deeply entered Yugoslav territory and ignored repeated warnings from Yugoslav border guards. According to the article, the joint Yugoslav-Hungarian committee that investigated the incident also confirmed the Yugoslav version. Peake also pointed out that the incidents had intensified since the Yugoslav note of 23 February.[17]

However, the series of border incidents and the subsequent exchanges of notes and slanderous rumours could easily have led to further escalation, which was presumably not in the interests of either party. Therefore, on 3 August, the Yugoslav and Hungarian governments signed a memorandum in Subotica in which they decided to set up a joint committee to investigate further border incidents. Peake had a similar evaluation: In his telegram of 6 August the British ambassador thought that the agreement was aimed at restoring normal relations at the Hungarian–Yugoslav border.[18]

By October 1949, border incidents were recurring almost periodically, linked to the Rajk trial and the accompanying anti-Yugoslav propaganda campaign in Hungary. Of these, the Foreign Office was particularly concerned with the border incident of 27 October and its aftermath. According to the Yugoslav version, at around 7 p.m. the Hungarians opened fire from automatic weapons and threw grenades fire from Hungarian territory on the border section east of Donji Miholjac. The provocation continued intermittently until 3 a.m.[19] The Hungarian version differs sharply from the above. According to it, some 30–40 Yugoslav soldiers from Donji Miholjac entered Hungary, but, under fire from Hungarian border guards, they retreated into Yugoslav territory.[20] Although the first reaction on the Yugoslav side was to take the matter to the United Nations, this was eventually abandoned.[21] Peake saw no point in doing so either, calling the incident *childish* and considered an investigation to be completely unnecessary.[22] The incident, however, provided a sufficient pretext for Hungary to denounce the Subotica Convention on 31 October 1949.[23] The British Embassy in Belgrade was informed of this on 5 November. The embassy was, moreover, always uncertain about the real purpose of the treaty as it had never been clear to them why the Hungarian government agreed to the setting up of such a committee at all. As the committee had never functioned in practice, the denunciation of the convention was presumably not considered particularly significant.[24]

[15] From Belgrade to Foreign Office, 8 March 1949. PRO FO 371/78702 R2703/10321/92.

[16] From Budapest to Foreign Office, 4 May 1949. PRO FO 371/78702 R4620/10321/92. The relevant Hungarian protest note of 25 April 1949: MNL OL XIX-J-1-k-Jugoszlávia-29/f-3658/1949 (46d.).

[17] From Belgrade to Foreign Officce, 6 May 1949. PRO FO 371/78702 R4701/10321/92.

[18] From Belgrade to Foreign Office, 6 August 1949. PRO FO 371/78703 R7619/10321/92.

[19] From Belgrade to Foreign Office, 31 October 1949. PRO FO 371/78704 R10361/10321/92.

[20] From Budapest to UK Delegation, New York, 1 November 1949. PRO FO 371/78704 R10466/10321/92. The corresponding Hungarian note: MNL OL XIX-J-1-k-Jugoszlávia-29/f-12895/1949 (47d.).

[21] From New York to Foreign Office, 29 October 1949. PRO FO 371/78704 R10294/10321/92 and From Belgrade to Foreign Office, 31 October 1949.PRO FO 371/78704 R10362/10321/92.

[22] From Belgrade to Foreign Office, 3 November 1949. PRO FO 371/78704 R10479/10321/92.

[23] MNL OL XIX-J-1-k-Jugoszlávia-29/f-ikt. n. (47d.). The Yugoslav reply note: MNL OL XIX-J-1-k-Jugoszlávia- 29/f- 12895/1949 (47d.).

[24] From Belgrade to Foreign Office, 9 November1949. PRO FO 371/78704 R10782/10321/92.

The situation on the Mura River was an interesting contrast to the usual accusations of border incidents. The river, coming down from the mountains, has deposited its sediment and created small islands. However, this changed the main course of the Mura, which altered the border between Hungary and Yugoslavia. In a such tense atmosphere, a "war of exchange of notes" immediately broke out over the status of the island formed by the river in 1951. The Foreign Office was first informed of this was by the British Embassy in Belgrade on 31 December 1951.[25] After discussions with the Yugoslavs, the British diplomats felt that a narrow causeway on the Yugoslav side could easily link the island to the mainland. But it was also thought possible that the spring tide would simply wash it away.[26] A similar view was expressed by Robert Maurice Hankey, British Ambassador in Budapest (1951–1953), in a letter to British Foreign Secretary Anthony Eden dated 15 February 1952. After a conversation with the Yugoslav Chargé d'Affaires, he reported that the Hungarians expected that the Yugoslavs would occupy the island in the autumn, at which time the Hungarians would bomb it and cause serious incidents. The British envoy at Budapest also thought it possible that the island would simply be submerged by spring or summer floods. It is likely that the Yugoslavs had similar ideas. Indeed, the Yugoslav spokesman on the issue explained that the Yugoslav government was obliged to protest in principle, but it was not their intention to get involved in serious incidents."[27] The Hungarian government, as usual, regarded the blowing up of the bridge at the Letenye border crossing over the Mura in August 1952 as an unprecedented provocation.[28] The British telegram from Belgrade on 19 August provided the Foreign Office the Yugoslav version of the story: the bridge at Letenye was of course blown up by the Hungarians.[29]

Altogether, according to the available Yugoslav statistics, there were 36 border incidents on the Hungarian–Yugoslav border, 35 on the Yugoslav–Bulgarian border, 29 on the Yugoslav–Albanian border, and slightly more, 48 on the Yugoslav–Romanian border between the outbreak of the Korean War and September 1950.[30] According to Hungarian Foreign Ministry records, there were 110 border incidents between July 1950 and the end of the year, 212 between January 1951 and the end of September, and 77 in 1952.[31] Given the political circumstances of the time, both sets of figures may contain deliberate distortions. While the Yugoslavs had an interest in exaggerating the danger posed by border incidents, the Hungarian side was interested in reducing the Yugoslav figures and in blaming the Yugoslavs for as many border incidents as possible.

The number of border incidents rose further after the outbreak of the Korean War. This was linked to the intensive propaganda campaign of the Soviet Union and its Eastern European satellites (the so-called people's democracies) against Yugoslavia and the possibility of a Soviet and/or Eastern European military aggression. However, the possibility of an attack could not be ruled out by the contemporaries. It is therefore understandable that contemporary analyses linked border incidents to the preparation of a military attack.

Military Manoeuvres, the Possibility of a Military Attack on Yugoslavia and the Strengthening of the Hungarian–Yugoslav Border

The outbreak of the Korean War was a major psychological shock in Western Europe, where it was feared that the Soviet Union would launch a similar surprise military offensive in Europe. Their fears were not without

[25] The British Embassy to Foreign Office, 31 December 1951. PRO FO 371/100559 NH10392/1.

[26] The British Embassy, Belgrade to British Legation, Budapest, 25 January 1952. PRO FO 371/100559 NH10392/4.

[27] R.M.A. Hankey to Anthony Eden, 7 February 1952. PRO FO 371/100559 NH10392/7. The Mura river floodplain was the subject of several Hungarian and Yugoslav notes of protest until 26 August 1953. These notes can be found: MNL OL XIX-J-1-k-Jugoszlávia-29/f-Dokumentáció III-ikt. sz. n. (47d.).

[28] From Budapest to Foreign Office, 18 August 1952. PRO FO 371/100559 NH10392/16. The relevant notes: MNL OL XIX-J-1-k-Jugoszlávia-29/f-Dokumentáció IV-ikt. sz. n. (47d.).

[29] From Belgrade to Foreign Office, 19 August 1952. PRO FO 371/100559 NH10392/18.

[30] *White Book*, 472–75.

[31] MNL OL XIX-J-1-k-Jugoszlávia-29/f-002491/1951 (46d.)., MNL OL XIX-J-1-k-Jugoszlávia-29/f-Az 1952-ben és 1953-ban jugoszláv részről elkövetett határincidensek és provokációk-iksz.n./1953 (46d.).

foundation. At a meeting with the military and party leaders of Eastern Europe on 9–12 January, Stalin gave orders to increase the size of the Eastern European armed forces to a level that would allow an attack within two to three years. The change in the Soviet Union's position was partly due to the successful Chinese offensive on the Korean peninsula. Another factor was the unconfirmed Soviet intelligence report that the Americans wanted to provoke a European conflict in the summer of 1951, using Yugoslavia as a springboard. (It also mentioned that the United States was prepared to use the atomic bomb against the Soviet satellites.[32]) The stalling of the Chinese offensive and the exposure of Soviet spies led to a further change in Soviet policy and Stalin abandoned his plan in May 1951.[33] Stalin's plans were also influenced by his fear of an attack from the West. His move could therefore be seen as a defensive one. Since the development of the army and the preparation for an attack could not happen overnight, this did not mean that a Soviet attack was to be expected in 1951.

Two different views have emerged in Hungarian historiography on the possibility of a Soviet and/or a Soviet satellites military attack against Yugoslavia. According to Béla Király, whose view is most often quoted in Western historiography, the Soviet camp would have launched a joint attack against Yugoslavia, in which Hungary would have played an active part. According to this view, the Hungarians would have launched a diversionary attack in the Transdanubian region, while the main forces would have been massed on the Great Hungarian Plain, between the rivers Danube and Tisza. Three corps were to break through the defensive line at Subotica and move from Fruška Gora to the Soviet-led "liberation" of Belgrade, the Yugoslav capital. According to Király, by the summer of 1950 everything was ready for the invasion of Yugoslavia. However, his view is not without contradictions, as pointed out by László Ritter. During his research, Ritter has not found any document that can credibly prove that there was a concrete offensive plan to invade Yugoslavia. In fact, he believes that the mobilisation of the Hungarian army was not part of the offensive, but of the defensive preparations. Based on a detailed examination of the pace of development of the Hungarian armed forces, he concludes that the Hungarian army would not have been able to participate in an attack on Yugoslavia between 1951 and 1953, despite the significant developments in rearmament. In fact, the Hungarian military exercise in 1951, to which Király refers in his memoirs, simulated not an offensive, but a counter-offensive against a Western attack from Yugoslavia.[34]

In addition to the increasing border incidents, rumours of Soviet troop movements also pointed to the escalation of the "war of nerves". The Foreign Office first reported on this on 10 March 1949, but at that time nothing abnormal were seen about the distribution of Soviet troops in Hungary.[35] However, reports of Soviet troop movements continued. Wallinger reported as early as 17 August (the day before the Soviet Union's note of 18 August 1949) that rail traffic at Záhony, the Hungarian–Soviet border crossing, had been steadily increasing since the beginning of the month. At the same time, the British military attaché reported that some 200-300 tanks had started to move from around Arad, Southwestern Romania, via Szeged to Baja and Budapest. He also learned that Soviet barracks were being constructed in Veszprém, and the construction of Soviet military airfields were underway in Pápa, Tököl

[32] Okváth Imre, ˝A magyar hadsereg háborús haditervei, 1948–1962,˝ *Hadtörténelmi Közlemények*, 119, no. 1 (2006): 35.

[33] Vojtech Mastny, *NATO in the Beholder's Eye: Soviet Perceptions and Policies, 1949-1956* (Washington: Cold War International History Project, Working Papers, 2002), 29–31. The Hungarian delegation attending the Moscow meeting was almost shocked by the Soviet announcements, but they obeyed in their implementation. Borhi László, *Magyarország a hidegháborúban. A Szovjetunió és az Egyesült Államok között, 1945–1956* (Budapest: Corvina, 2005), 239–40. On the background and the causes of the Korean War see: Vojtech Mastny, *The Cold War and Soviet Insecurity* (New York – Oxford: Oxford University Press, 1996), 91–115., John Lewis Gaddis, *Most már tudjuk. A hidegháború történetének újraértékelése* (Budapest: Európa, 2001), 135–61.; Kathryn Weathersby, *"Should We Fear This?" Stalin and the Danger of War with America*, (Washington: Cold War International History Project, Working Paper, 2002) and Vlaldislav Zubok – Constantine Pleshakov, *Inside the Kremlin's Cold War. From Stalin to Khrushchev* (Cambridge, Massachusetts – London: Harvard University Press, 1996), 54–72., Mastny, *NATO in the Beholder's Eye*, 18–36.

[34] Király Béla, *Honvédségből néphadsereg* (Budapest: Co-Nexus, 1989), 165–67., Király Béla, ˝A magyar hadsereg szovjet ellenőrzés alatt,˝ in *Magyarország és a nagyhatalmak a 20. században*, ed. Romsics Ignác (Budapest: Teleki László Alapítvány, 1995), 233–35., László Ritter, ˝The Hungarian Army in Early Cold War Soviet Strategies,˝ Parallel History Project on Cooperative Security, accessed January 31, 2025, https:phpisn.ethz.ch>introduction_ritter, Okváth Imre, *Bástya a béke frontján. Magyar haderő és katonapolitika 1945–1956* (Budapest: Aquila, 1998), 117–39.

[35] From Budapest to Foreign Office, 10 March 1949. PRO FO 371/78702 R2840/10321/92G.

and Kaposvár (probably Taszár).[36] On 23 August he clarified that Soviet troops were divided into three parts. One was stationed 20 kilometres south of Budapest, another at Szeged and the third at Baja, but he found no reliable signs of troop movements or mobilisation in the Transdanubian region.[37] However, the British military attaché who had travelled to the Szeged area saw several tanks, trucks and soldiers in and around Kecskemét. Although he did not encounter any Soviet units in Szeged, Wallinger was aware of the panic among its inhabitants: a few hours after the Soviet soldiers had passed through Szeged, it was reportedly impossible to buy salt and safety matches in the town.[38] On 2 September, the British diplomat again telegraphed from Szeged, this time referring to what he considered reliable reports from Italian diplomats. According to these, several large buildings near Szeged and Bata (possibly Báta, Tolna County) had been requisitioned (presumably for Soviet barracks) with an evacuation date of 1 September to 1 October, and more Soviet troops had arrived in the area. Wallinger was surprised to hear a third reference to Soviet troop movements from the area in such a short space of time but had not personally experienced anything similar on his visits.[39] The troop movements were probably not aimed at attacking Yugoslavia, but to reinforce the Soviet Union's note of 18 August 1949 and to intensify the war of nerves. The British Embassy in Budapest understood this. In the top-secret telegram of 23 August, described above, Wallinger considered that the rumours gave a new colour to the escalation of ongoing the war of nerves.[40]

In addition to the persistent border incidents and rumours of Soviet troop movements, the technical reinforcement of the Hungarian–Yugoslav border was carried out as an intensification of the "war of nerves". The plans for this were drawn up as early as November 1948. As part of the first phase, the single-row wire fence was replaced by a double-row wire fence along the entire Yugoslav border from the beginning of 1949. In addition, a 10- to 15-metre-wide border strip was ploughed to facilitate border crossing controls. However, the full implementation of this phase did not take place until August 1950.[41] Border reinforcement continued in 1950. At the meeting of the Secretariat of the Hungarian Workers' Party on 12 April, János Kádár presented a 24-point plan which stressed the need to create a 15 km-wide border zone. This covered some 15 districts and 310 settlements with 290,000 inhabitants, although towns of more than 50,000 inhabitants were excluded. The proposal also suggested that from 1 July a special pass would be required to enter the area, it banned hunting within 1 km of the border and made the cultivation of land within 500 metres of the border subject to a special permit, which could only be used from sunrise to sunset.[42]

The reinforcement of the border was repeatedly discussed by the British Embassy in Budapest. On 31 May, for example, a telegram was sent to London informing them that entry had been banned within 15 km of the Yugoslav border.[43] However, in the subsequent analysis, no military significance was attributed to this, and it was pointed out that it was precisely the towns with a significant military presence (such as Szeged or Nagykanizsa) that were excluded from the border zone. The reason for the move was therefore thought to be more to prevent illegal border crossing, but the possibility of propaganda and escalating the war of nerves was not considered.[44]

In addition to regularly reporting on incidents on and the reinforcement of the Hungarian–Yugoslav border, the British embassies were closely monitoring the development of the Hungarian armed forces. British estimates of army numbers showed a gradual increase. On 21 July 1951, the War Office estimated the number of conscripts in the Hungarian army at 112,000, including the border guards. This was supplemented by a further 40,000 police and security forces, which represented a 50 per cent overrun of the provisions of the 1947 Paris peace treaty.[45]

[36] From Budapest to Foreign Office, 17 August 1949. PRO FO 371/78691 R7987/1023/92.
[37] From Budapest to Foreign Office, 23 August 1949. PRO FO 371/78692 R8148/1023/92G.
[38] Geoffrey Wallinger to Sir Anthony Rumbold, 24 August 1949. PRO FO 371/78692 R8389/1023/92.
[39] From Budapest to Foreign Office, 2 September 1949. PRO FO 371/78693 R8533/1023/92.
[40] From Budapest to Foreign Office, 23 August 1949. PRO FO 371/78692 R8148/1023/92G.
[41] Okváth, *Bástya a béke frontján*, 113–14., Kovács Imre, ˝Déli határunk műszaki-zárási és erődítési munkái 1950–1955-ben,˝ *Új Honvédségi Szemle* 120, no 1 (1992): 34–6., Orgoványi István, ˝A déli határsáv 1948 és 1956 között,˝ *Bács-Kiskun megye múltjából* 17 (2001): 253–85.
[42] Orgoványi, ˝A déli határsáv,˝ 253–63.
[43] From Budapest to Foreign Office, 31 May 1950. PRO FO 371/87865 RH1194/1.
[44] From Budapest to Foreign Office, 2 June 1950. PRO FO 371/87865 RH1194/2.
[45] The War Office to Southern Deparment, Foreign Office, 21 June 1951. PRO FO 371/95009 R1193/21G. Chapter 12 of the Paris Peace Treaty, entitled *Military and Air Clauses* states that "Hungary has been authorized to have armed forces consisting of not more than: (a) A land army, including frontier troops, anti-aircraft and river flotilla personnel, with a total strength of 65,000 personnel; (b) An air force of 90 aircraft, including

As Hungary was in clear breach of the peace treaty, it seemed obvious that a Western protest should be made. By mid-February 1951, the United States had mooted the idea of a joint note with Britain protesting the increase in the number of troops. A similar protest on the expansion of the Romanian army was to be made, too. The British were expected to protest in a separate note in the case of Bulgaria. However, in a telegram dated 6 March, the Foreign Office considered this to be prejudicial to the negotiations between the four powers (the United States, Great Britain, France and Yugoslavia). It was therefore thought most useful to raise the whole problem inadvertently.[46] The United States was, however, still considering condemning in a note the military build-up of the Soviet satellite countries, which could also be part of a more spectacular US policy towards Yugoslavia. However, this this was again rejected by the Foreign Office in its reply of 8 June in connection with the Four Power Conference, reiterated its earlier position: during the four power talks (between the United States, Britain, France and Yugoslavia), Britain did do not wish to raise the question of the military build-up and level of armament in the Soviet satellite states.[47]

Moreover, despite a series of improvements, Wallinger himself did not consider the Hungarian army to be financially or morally capable of attacking Yugoslavia in the summer of 1950, either.[48] On 31 August 1951, Hankey, the new British ambassador in Budapest (appointed in 1951), produced a detailed summary of Hungarian preparations for war. According to this, there was a constant propagandistic reference in Hungary and the other Soviet satellites to the possibility of partisans being thrown into Yugoslavia to overthrow Tito's regime. The deportation of untrustworthy elements from the border zone in 1950 could also be seen as an offensive move. He also noted that improvements had been made in the Hungarian air force: the commercial airport at Nagykanizsa had been handed over to the military and Soviet soldiers were already stationed at Taszár (a military base near Kaposvár in Somogy County). Still, he did not see any other moves that would have indicated any direct preparations for an attack against Yugoslavia.[49]

The above reports from British missions and consulates illustrate that the intensity of the "war of nerves" did not diminish in the period following the outbreak of the Korean War. The outbreak of the war did not mean a break of a sudden escalation, but that the actions that had been started earlier continued and intensified. The development of the Soviet satellite forces, including the Hungarian People's Army, continued in the following years, and British intelligence officers and strategists produced new analyses of this. However, these analyses were more concerned with how Yugoslavia could be integrated into Western defence plans. It was only after Stalin's death on 5 March 1953 that the policy of the Soviet Union and the Eastern European people's democracies started to change, with the new Soviet leadership setting itself the goal of normalising Soviet-Yugoslav relations.[50]

Conclusion

This study examined how British diplomacy saw Hungary's role in the economic blockade of Yugoslavia and the "war of nerves" during the Soviet-Yugoslav conflict. The British documents reveal that the Foreign Office was deeply concerned about the border incidents on the Hungarian-Yugoslav border, which were becoming commonplace, and the strengthening of the Hungarian armed forces. The latter, a general trend in the Soviet camp, had the effect of upsetting the strategic balance between Yugoslav and neighbouring forces, therefore it was examined in the context of a possible Soviet and/or Soviet satellite military attack on Yugoslavia. Incidents on the Hungarian–Yugoslav border, however, were not given such importance, but were always considered as a normal part of "war of nerves" and propaganda warfare.

reserves, of which not more than 70 may be combat types of aircraft, with a total personnel strength of 5,000. Hungary shall not posess or acquire any aircraft designed primary as bombers with internal bomb-carrying facilities." ˝Treaty of Peace with Hungary,¨ Library of Congress, accessed January 30, 2025, https: maint.loc.gov>bevans>m-ust000004-0453.

[46] From Foreign Office to Washington, 6 March 1951. PRO FO 371/95009 R1193/13.

[47] From Foreign Office to Washington, 8 June 1951. PRO FO 371/95009 R1193/19.

[48] Review of the Military Situation in Hungary, 11 August 1950. PRO FO 371/87865 RH1194/8.

[49] The British Legation, Budapest to Paul Mason, Foreign Office, 31 August 1951. PRO FO 371/95192 RH10392/22.

[50] On the normalization of Hungarian–Yugoslav relations: Marelyin Kiss József – Ripp Zoltán – Vida István, ˝A szovjet–jugoszláv és a magyar–jugoszláv kapcsolatok a diplomáciai levelezés tükrében,˝ *Múltunk* 46, no. 1 (2001): 233–84., A. Sz. Sztikalin, ˝A szovjet–jugoszláv közeledés és a magyar belpolitikai helyzet (1954–1956 nyara), *Múltunk* 48, no. 1 (2003): 208–34., Vukman Péter, *Harcban Tito és Rankovics klikkje ellen". Jugoszláv politikai emigránsok Magyarországon (1948–1980)* (Budapest – Pécs: ÁBTL – Kronosz, 2017), 173–98.

COMPETING INTERESTS

The author has no competing interests to declare.

REFERENCES

Borhi, László. *Hungary in the Cold War 1945–1956*. Budapest – New York: CEU Press, 2004.

Borhi, László. *Magyarország a hidegháborúban. A Szovjetunió és az Egyesült Államok között, 1945–1956*. Budapest: Corvina, 2005.

Gaddis, John Lewis. *Most már tudjuk. A hidegháború történetének újraértékelése*. Budapest: Európa, 2001.

Gibianski, Leonid. ˝The 1948 Soviet–Yugoslav Conflict and the Formation of the 'Socialist Camp' Model.˝ In *The Soviet Union in Eastern Europe, 1945–89*, edited by Odd Arne Westad, Sven G. Holtsmark, and Iver B. Neumann, 26–46. New York: Palgrave Macmillan, 1994.

Heuser, Beatrice. *Western 'Containment' Policies in the Cold War. The Yugoslav Case, 1948–53*. London-New York: Routledge, 1989.

Király, Béla. ˝A magyar hadsereg szovjet ellenőrzés alatt.˝ In *Magyarország és a nagyhatalmak a 20. században*, edited by Romsics Ignác, 229–44. Budapest: Teleki László Alapítvány, 1995.

Király, Béla. *Honvédségből néphadsereg*. Budapest: Co-Nexus, 1989.

Kovács, Imre. ˝Déli határunk műszaki-zárási és erődítési munkái 1950–1955-ben.˝ *Új Honvédségi Szemle* 120, no. 1 (1992): 33–9.

Lane, Ann. *Britain, the Cold War and Yugoslav Unity, 1941–1949*. Brighton: Sussex Academic Press, 1996.

Lees, Lorraine M. *Keeping Tito Afloat. The United States, Yugoslavia, and the Cold War*. University Park: Pennsylvania State University Press, 1997.

Marelyin, Kiss József – Ripp, Zoltán – Vida, István. ˝A szovjet–jugoszláv és a magyar–jugoszláv kapcsolatok a diplomáciai levelezés tükrében.˝ *Múltunk* 46, no. 1 (2001): 233–84.

Mastny, Vojtech. *NATO in the Beholder's Eye: Soviet Perceptions and Policies, 1949–1956*. Washington: Cold War International History Project, Working Papers, 2002.

Mastny, Vojtech. *The Cold War and Soviet Insecurity*. New York – Oxford: Oxford University Press, 1996.

Okváth, Imre. ˝A magyar hadsereg háborús haditervei, 1948–1962.˝ *Hadtörténelmi Közlemények* 119, no. 1 (2006): 34–53.

Okváth, Imre. *Bástya a béke frontján. Magyar haderő és katonapolitika 1945–1956*. Budapest: Aquila, 1998.

Orgoványi, István. ˝A déli határsáv 1948 és 1956 között.˝ *Bács-Kiskun megye múltjából* 17 (2001): 253–85.

Rajak, Svetozar. ˝The Cold War in the Balkans, 1945–1956.˝ In *History of the Cold War*, edited by Melvin P. Leffler and Odd Arne Westad 198–220. Cambridge: Cambridge University Press, 2010. Vol. I.

Ritter, László. ˝The Hungarian Army in Early Cold War Soviet Strategies.˝ Parallel History Project on Cooperative Security. Accessed January 31, 2025, https:phpisn.ethz.ch>introduction_ritter

Romsics, Ignác. *Az 1947-es párizsi békeszerződés*. Budapest: Osiris, 2006.

Sztikalin, A. Sz. ˝A szovjet–jugoszláv közeledés és a magyar belpolitikai helyzet (1954–1956 nyara).˝ *Múltunk* 48, no. 1 (2003): 208–34.

Vukman, Péter. ˝A brit külügyminisztérium Magyarország szovjet-jugoszláv kofliktusban játszott szerepéről (1948–1953).˝ *Múltunk* 2 (2010): 229–57.

Vukman, Péter. ˝„A fordulat évei". Magyar–jugoszláv kapcsolatok (1948–1949).˝ *Acta Historica Szegediensis* Tomus 141 (2017): 179–94.

Vukman Péter. ˝Barátból ellenség – ellenségből barát (?): A magyar–jugoszláv párt- és államközi kapcsolatok (1945–1956).˝ *Fejezetek a titói Jugoszlávia korai szakaszából*, edited by Molnár Tibor, 45–79. Zenta: Történelmi Levéltár, 2016.

Vukman, Péter. *Harcban Tito és Rankovics klikkje ellen". Jugoszláv politikai emigránsok Magyarországon (1948–1980)*. Budapest – Pécs: ÁBTL – Kronosz, 2017.

Vukman, Péter. ˝"Tito felszínen tartása". Nagy-Britannia szerepe Jugoszlávia gazdasági megsegítésében (1948–1953).˝ *Külügyi Szemle* 4 (2009): 110–29.

Weathersby, Kathryn. *"Should We Fear This?" Stalin and the Danger of War with America*. Washington: Cold War International History Project, Working Paper, 2002.

Zubok, Vlaldislav –Pleshakov, Constantine. *Inside the Kremlin's Cold War. From Stalin to Khrushchev*. Cambridge, Massachusetts – London: Harvard University Press, 1996.

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The Intersection of Justice and European Union Integration: War Crimes Adjudication in Kosovo

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ABSTRACT

This paper explores the connection of justice and European Union (EU) integration through the lens of war crimes adjudication in Kosovo. Following the Kosovo conflict of 1998-1999, the adjudication of war crimes has become an important aspect of the region's efforts to align with EU accession criteria. The paper examines the adjudication of war crimes in Kosovo, conducted by international, hybrid, and local tribunals. It addresses the challenges faced and the reforms implemented to meet EU accession criteria. The study underscores that the importance of adjudication of war crimes in meeting EU accession criteria, promoting reconciliation, and fostering regional cooperation. It concludes that while important progress has been achieved, substantial challenges and tasks still like ahead.

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KEYWORDS:

War crimes trials, Kosovo war, EU Integration, ICTY, hybrid tribunals; local courts, rule of law, regional cooperation

Introduction

The Kosovo conflict from 1998-1999 was characterized by widespread human rights abuses. According to the Kosovo Memory Book, over 13,517 people were killed or went missing. This includes 10,415 Albanians, 2,197 Serbs, and 528 Roma, Bosniaks and other minority groups.[1] Over 1,600 people are still missing - most of them Albanians.[2] The United Nations High Commissioner for Refugees reports that roughly 700,000 people became refugees, and around 70,000 houses were damaged or destroyed.[3]

This data highlights the ethnic dimensions of the conflict and the extensive human suffering involved, emphasizing the need for comprehensive justice and reconciliation efforts that address the grievances of all affected communities.

Since the end of conflict, various criminal justice mechanisms - international, national and hybrid courts have addressed the crimes committed. Each of these has encountered success and difficulties.[4] The adjudication of war crimes is not just about delivering justice for past atrocities; it is also a vital component of Kosovo's broader efforts to integrate into the EU, aligning with the principles of accountability, reconciliation, and rule of law that the EU espouses.

This underscores the dual role of war crimes adjudication as both a process of delivering justice and a strategic mechanism for political and institutional reform aligned with EU integration goals.

This paper explores the adjudication of war crimes in Kosovo adjudication of war crimes and related judicial reforms that have been crucial for the country's path toward EU integration. It also highlights the key obstacles that persist, including the lack of regional cooperation and the unresolved issue of missing persons.

The research questions guiding this paper are: (1) How have war crimes committed during the Kosovo War have been adjudicated through international, hybrid, and domestic mechanisms? (2) What judicial reforms related to war crimes adjudication has Kosovo implemented to align with EU accession criteria, and what challenges remain?

The study combines both qualitative and quantitative methodology, relying on desk research and document analysis. Sources include EU progress reports, domestic and international legal documents, reports by human rights organisation and academic literature.

The paper first provides an overview on Kosovo conflict then it examines mechanisms established for the adjudication of war crimes in Kosovo. Then it analyses the efforts to reform the justice system as regards to adjudication of war crime cases, highlighting the significant challenges and limitations.

Finally, the article considers the cooperation on war crime cases between Kosovo and Serbia, an issue perceived as a contentious issue by both sides but essential to determine the crimes committed.

Results

An overview on Kosovo War and the Post-War Context

In 1991, the Socialist Federal Republic of Yugoslavia collapsed, resulting in a war that ended in 1995 and the creation of six independent successor states. During this breakup, the Serbian government exploited the power vacuum created by the increasingly weakened federation and established its authority in Kosovo.[5] On March 23, 1989, Kosovo lost its previous autonomous status and all powers within the Yugoslav Federation, being re-annexed to Serbia. It was assigned a provincial statute as its highest legal authority, significantly diminishing its prior legal standing. Following this, a series of laws were enacted to systematically dismantle the legislation previously established by the Kosovo Assembly, resulting in the complete de-institutionalization of the province.[6] Additionally, changes to the Serbian Constitution were made that revoked the rights of Kosovo Albanians recognized by the 1974 Constitution. Kosovars refused to obey the new laws.[7] Consequently, strict policies

[1] Humanitarian Law Center, 'Kosovo Memory Book'

[2] A war crimes suspect arrested in Kosovo (*Radio Free Europe*, 12 September 2024). <https://www.evropaelire.org/a/arrestim-i-dyshuar-krime-lufte-/33117654.html> accessed 30 September 2024.

[3] UNHCR, (26 July 1999), *Kosovo Crisis Update*. United Nations High Commissioner for Refugees, available at https://www.unhcr.org/news/kosovo-crisis-update-73

[4] See Bella Murati, 'Layered Justice: Assessing the Acceptance of the Multiple International Criminal Justice Mechanisms in Post-War Kosovo' (2017).

[5] Alex J Bellamy, 'Kosovo and International Society' (Palgrave Macmillan 2002, London).

[6] Blerim Reka, 'UNMIK as International Governance in Post-war Kosova: NATO's Intervention, UN Administration and Kosovar Aspirations' (Logos, 2003, Skopje) pg 232.

[7] Christopher Greenwood, 'Humanitarian Intervention, Case of Kosovo' (2002) Finish Yearbook of International Law 141-175.

regarding the Albanian language were established. Albanian television, radio, and press were closed.[8] Moreover, the majority of Kosovar Albanians were fired from their jobs in the public sector, and torture, arbitrary arrest, and detention without trial were exercised among Kosovars.[9]

These repressive measures reveal the systematic nature of ethnic and political disenfranchisement that heightened tensions and contributed to the outbreak of conflict. The denial of basic rights and cultural suppression significantly deepened divisions and sowed the seeds for armed resistance.

Initially, Kosovars protested peacefully against the repression, then from 1998, the protests turned violent with the creation of the Kosovo Liberation Army (KLA). The KLA, began its revolution by murdering Serb police and paramilitary members, as well as Kosovars who were cooperating with the regime, which led to violent revenge.

The Serbian forces responded with severe counter attacks, targeting their attacks to KLA members and Albanian politicians. The situation escalated in early 1998 with an indiscriminate attack on civilians in the region of Drenica. This resulted in radicalizing Kosovo's population and KLA, who were greatly supplied with weapons from Albania. In February 1999, the fighting in Kosovo officially became an 'internal armed conflict'.[10] The massacre of Recak in January 1999 led to the organization of the Rambouillet Conference, near Paris, which aimed at finding a peaceful solution. As the talks failed, NATO launched an aerial bombardment on the 24 March 1999. After a 78-day campaign, the war in Kosovo ended with the Kumanovo Agreement on the 9 June 1999.

The NATO intervention resulted in the removal of the forces of the FRY and the installation of the United Nations Interim Administration Mission in Kosovo (UNMIK). Established under Security Council Resolution 1244, UNMIK was granted the authority to temporarily exercise sovereignty over the territory of Kosovo.[11]

This sequence illustrates the escalation from political repression to armed conflict and the complexity of regional and international responses. NATO's intervention, while decisive, introduced new legal and political frameworks that have shaped Kosovo's post-war governance and justice mechanisms, but also the ongoing contestation over sovereignty.

The following section examines the accountability mechanisms that have been established in Kosovo. It explores their structure, role, and limitations in delivering justice and how each has contributed or struggled with fighting impunity.

Mechanisms of War Crimes Accountability: International, Hybrid, and Domestic Courts in Kosovo

Accountability for the atrocities committed during the wartime in Kosovo has been pursued through international (International criminal tribunal for the former Yugoslavia-ICTY), hybrid courts such as UNMIK and European Union Rule of Law (EULEX), local courts, and the Kosovo Specialist Chambers (KSC) and Specialist Prosecutor's Office (SPO).

The coexistence of multiple judicial mechanisms reflects efforts to bridge gaps between international norms and local realities, though it also raises issues of coordination, jurisdiction, and perceived legitimacy among local populations.

1. International Criminal Tribunal for the Former Yugoslavia

The first significant mechanism established for war crimes accountability in the region was the ICTY, which played a central role in prosecuting key individual responsible for atrocities committed during the break-up of Yugoslavia, including Kosovo.[12]

During its 24 years of operation, the tribunal tried key political figures and ranking military leaders.[13] With regard to trials in relation to Kosovo, the number is relatively small: three cases against nine Serbian defendants, and two cases against a total of six Kosovar defendants, including two eminent political figures of KLA as well as a former KLA commander and Kosovar Prime Minister

[8] Independent International Commission on Kosovo (ed), *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford University Press 2000) 34.

[9] *ibid*.

[10] In particular Article 3 to the Geneva Conventions of 1949, the Protocol II to those conventions, and the customary rules of war.

[11] United Nations Security Council Resolution 1244 (1999)

[12] 'About the ICTY` (*ICTY*) <http://www.icty.org/en/about> accessed 25 September 2024.

[13] 'Infographic: ICTY Facts & Figures` (*ICTY*) <http://www.icty.org/en/content/infographic-icty-facts-figures> accessed 26 September 2024.

Ramush Haradinaj and Fatmir Limaj.[14] Of nine Serbian defendants, one died before the conclusion of the trial, namely Milosevic, six were sentenced to prison and two were acquitted.[15] On the other hand, one ethnic Albanian defendant, Hajredin Balaj was convicted of war crimes and crimes against humanity against Serbs and moderate Albanians, while other defendants were found not guilty.[16]

The tribunal provided truth for several committed crimes, yet the established facts remain contested at national and regional levels.[17] As countries approach membership in EU, they still show resistance to confronting their past and often regard convicted war criminals as heroes.[18]

Following the closure of the ad hoc tribunals for the former Yugoslavia and Rwanda, it was established an international court called the International Residual Mechanism for Criminal Tribunals (UNMICT) to carry out the remaining functions of the tribunals.[19]

While the ICTY played a key role in establishing accountability, its limited case load for Kosovo and the continued denial or glorification of convicted individuals reflects deep social and political divides. This challenges reconciliation and highlights the limits of international tribunals in resolving contested narratives in post-conflict societies.

2. Hybrid Judicial Mechanisms – UNMIK and EULEX in Bridging International and Domestic Justice

Following the ICTY's establishment, additional hybrid mechanism were introduced in Kosovo to fill gaps in justice at the domestic level. Among the most important were the judicial roles of the UNMIK and later EULEX missions, which aimed to combine international and local participation.

In the immediate aftermath of Kosovo war, the UNMIK established the judicial system in Kosovo staffed by locals. Soon it became apparent that the poor performance of domestic courts was due to a lack of adequate resources and capacities to adjudicate war crimes.[20] In light of these problems, in 2000 UNMIK involved international prosecutors and judges in the judicial system of Kosovo. UNMIK judges adjudicated war crimes jointly with the Kosovo counterpart. On the other hand, international prosecutors dealt with the indictments. This was seen as a situational solution to overcome these challenges, as well as the capacity limitations of the ICTY.[21] Before the establishment of UNMIK panels, Serb defendants were often discriminated by the judicial institutions based on ethnicity resulting in favour of Kosovars.[22] For example, a few former KLA fighters who were arrested by UNMIK police for attacking some Serb houses and shooting at KFOR troops in protest against the failure of KFOR to protect Kosovars in the north of Kosovo from Serbs attacks, were released by the Kosovar judge the next day.[23] UNMIK panels represented a major step forward in securing impartial judiciary and combat impunity.

This illustrates the need for international oversight in transitional justice contexts, especially where domestic institutions lack independence or are perceived as biased. The hybrid model aimed to balance international legal standards with local participation, though it often struggled with legitimacy among all ethnic groups.

Shortly after Kosovo declared independence in 2008, EULEX was established as a new form of international

[14] This excludes appeals and re-trials.

[15] See, 'Key Figures of the Cases'(ICTY) <http://www.icty.org/en/cases/key-figures-cases> accessed 26 September 2024.

[16] *Prosecutor v. Limaj et al.* (Judgement in Appeals) ICTY IT-03-66-A (27 September 2007). *Prosecutor v. Ramush Haradinaj et al.* (Judgements in Retrial) ICTY IT-04-884bis-T (29 November 2012).

[17] 'ICTY Closing Ceremony Serge Brammertz,' (The Hague, 21 December 2017).

[18] See Florence Hartman, 'The ICTY and EU Conditionality' in Judy Batt and Jelena Obradovic (ed), *War Crimes, conditionality and EU integration in the Western Balkans* (Institute for Security Studies, 2009) pg.69.

[19] See 'About' *(The International Residual Mechanism for Criminal Tribunals)* https://www.irmct.org/en/about> accessed 14 October 2024.

[20] In cases where former KLA members were arrested for attacks on Serbs they would often be proposed for release by the prosecutor, and then release by the investigative judge, whereas Serb defendants would be held in custody for the same crimes.

[21] Laura A. Dickinson, 'The Relationship Between Hybrid Courts and International Courts: The Case of Kosovo' (2002) 37 New England Law Review 4 1059.

[22] See Mechael E Hartmann, 'International Judges and Prosecutors in Kosovo: A New Model for Post-Conflict Peacekeeping" (United States Institute of Peace 2003).

[23] Northern Mitrovica is a Serb-dominated area of Kosovo controlled by Serbia. See 'Transitional Justice in Kosovo' (KIPRED 2008) 17.

presence. Consequently, UNMIK judges and prosecutors were replaced by their counterpart from EULEX mission.

In 2015, EULEX handed all the cases to local holders of judicial office, and from June 2018 locals have been handling all war crimes cases independently. EULEX continues to monitor specific court cases, including war crimes. Additionally, it provides technical support for the implementation of certain agreements from Kosovo-Serbia dialogue facilitated by the EU.[24]

This transition marked a shift in ownership of justice processes to domestic institutions, aligning with EU integration benchmarks. However, the withdrawal of direct international involvement also tested the capacity and independence of the local judiciary.

Both UNMIK and EULEX faced challenges due to inadequate witness protection programs and delayed proceedings, and for this reason, they are often criticized by member of the local judiciary.[25] These shortcomings significantly undermined the credibility and effectiveness of international missions in delivering justice for war crimes, especially in the context where witness intimidation remains a serious obstacle to accountability. The lack of timely and secure procedures weakened public trust and discouraged victims and witness from participating in trials.[26]

This shows that while international involvement was essential to support the judicial system, shortcomings as inadequate witness protection and procedural delays undermined public confidence.

3. Domestic Courts: Progress and Persistent Challenges in Kosovo's National Justice System

With the gradual withdrawal of international actors, the responsibility for adjudicating war crimes shifted to Kosovo's institutions. In 2015, the mandate of EULEX was reduced, and the first war crimes cases were handed to local holders of judicial office. From June 2018 locals have been handling all war crimes cases independently. Adjudication of war crimes is a competence of the Special Department at the Basic Court of Prishtina.[27] The Special Department of the Kosovo Appellate Court decides upon appeals, while the Supreme Court acts upon requests for extraordinary legal appeals against final decisions.[28]

The institutional framework signals a commitment to independent adjudication; however, its efficacy is undermined by long-standing systemic weaknesses. The system of justice continues to face old problems. The absence of cooperation with Serbian authorities, unwillingness to prosecute high-ranking suspects, and the lack of a witness protection program are some issues that have jeopardized the adjudication of war crimes.

These enduring limitations weaken public trust in justice mechanisms and reflect broader political hesitations to address crimes committed by one's own side, a challenge common in post-conflict transitions.

In the period from 1999 until September 2024, nearly 70 people have been convicted of war crimes before domestic and international institutions.[29] The number of convicted individuals is disproportionally low given the given the high number of victims and causalities. However, the Humanitarian Law Center in Kosovo, in its 2024 report, highlighted that war crime trials are being conducted with professionalism by both the Basic Court and the Court of Appeals, specially by the latter.[30] This

[24] See What is EULEX? < https://www.eulex-kosovo.eu/?page=2,60> accessed 1 October 2024.

[25] EULEX worked very little to address war crimes < https://sinjali.com/prokurorja-hajdari-unmik-u-dhe-eulex-i-punuan-shume-pak-per-ti-zbardhur-krimet-e-luftes/> accessed 1 October 2024.

[26] See Parliamentary Assembly of the Council of Europe. (2021). *The Protection of witnesses as a cornerstone for justice and reconciliation in the Balkans* (Doc. 12581), available at https://pace.coe.int/en/files/12581/html?utm_source> (accessed on 3 July 2025).

[27] The legal landscape was shaped by the Law on Courts, effective since January 2, 2019, especially Article 13, which designates the Special Department at the Basic Court as competent in cases concerning indictments of the SPRK. This jurisdiction extends to cases where the indictment evaluation procedure remained incomplete prior to the law's enactment. Throughout the year, the courts – primarily according to territorial jurisdiction – examined cases where the indictment evaluation was pending, or where the criminal procedure had been initiated. This comprehensive process ensures that cases progress through all stages of the legal proceedings.

[28] Law on Courts Official Gazette of Republic of Kosovo No.03/L-199 (2013).

[29] A war crimes suspect arrested in Kosovo (*Radio Free Europe*, 12 September 2024) <https://www.evropaelire.org/a/arrestim-i-dyshuar-krime-lufte-/33117654.html> accessed 30 September 2024.

[30] Humanitarian Law Center Kosovo (2024). Kosovo Report 2024, pg.17, available at https://hlc-kosovo.org/storage/app/media/Raporti%20vjetor%202024/Ko

suggests that the judicial practices are improving; however, the system faces barriers to accountability yet.

4. Kosovo Specialist Chambers and Specialist Prosecutor's Office: A New Internationalized Justice Initiative

In response to the limitations of both international and domestic mechanisms, a new hybrid institution - the KSC and SPO was established to address specific crimes allegedly committed during and after math the conflict.[31] Its formation is a result of a 2011 report by the Council of Europe rapporteur Dick Marty which links KLA top officials,[32] to atrocities committed against Serbs, and those who thought to be collaborating with Serbs. The KSC and SPO are under Kosovo's national legislation and is staffed with international personnel. The Court became operational in 2018, however, its activities were intensified only in 2020 when the SPO started filing indictments.[33] In total, KSC has been dealing with six cases.[34] All the accused individuals belong to the Albanian community, including former President of Kosovo Hashim Thaci. On the other hand, war crimes committed by Serbian perpetrators remain unaddressed. Consequently, the local legitimacy of the court is undermined.

The court's narrow focus has led to perceptions of ethnic bias, which could erode its credibility among Kosovars and hinder broader goals of transitional justice and reconciliation.

Nonetheless, the personal jurisdiction of the KSC covers natural persons of Kosovo/FRY citizenship, or persons who committed crimes against persons of Kosovo/FRY citizenship.[35] This means that members of the Serb community or any other minority group in Kosovo can be prosecuted by the court in case of enough evidence of their involvement in human rights abuses. Therefore, the extension[36] of the KSC and SPO's mandate to prosecute the wrongdoings of both sides of the 1998-1999 conflict in Kosovo would contribute to increase the court acceptance by the Kosovo people, reveal the truth about the past and encourage acceptance between individuals of conflicting parties.[37]

Such an expansion would reinforce the principle of impartial justice and pave the way for more meaningful reconciliation and a shared historical narrative.

Addressing War Crimes in the Context of EU Accession: Kosovo's Justice Reform Path

Kosovo has stated its intention to join the EU since declaring independence from Serbia in February 2008.[38] Investigating war crimes and resolving the fate of the missing persons who disappeared during the Kosovo war are key issues to the negotiation process between Kosovo and Serbia.[39] Additionally, the European Commission's assessment of the effectiveness of Kosovo's judicial system and its reform to EU standards depends on this, among other matters.[40]

This underscores the EU's emphasis on justice and human rights as prerequisites for accession. War crimes accountability is not only a matter of legal compliance but also a test of political maturity and commitment to democratic values.

To this end, Kosovo has undertaken several reforms in the judicial sector to align with the EU agenda, thereby facilitating its integration into the EU. Currently, Kosovo is

sovo%20report%202024%20ALB%20SRB%20ENG.pdf> (accessed on 3 July 2025).

[31] Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, Art. 1 (2).

[32] 'Background' (*Kosovo Specialist Chambers & Specialist Prosecutor's Office*, 4 October 2017) <https://www.scp-ks.org/en/background> accessed 28 September 2024.

[33] First Indictment Announced at the Kosovo Specialist Chambers ASIL <https://www.asil.org/insights/volume/24/issue/23/first-indictment-announced-kosovo-specialist-chambers> accessed 29 September 2024.

[34] See 'Cases' (*Kosovo Specialist Chambers & Specialist Prosecutor's Office),* https://www.scp-ks.org/en/cases> accessed 30 June 2025.

[35] See 'Kosovo Specialist Chambers & Specialist Prosecutor's Office'(*Kosovo Specialist Chambers & Specialist Prosecutor's Office),* https://www.scp-ks.org/en> accessed 14 October 2024.

[36] Not only to the findings in the Marty Report.

[37]Annalisa Canova, 'Kosovo Specialist Court: A New Way to Seek Justice for Unpunished Crimes and Human Rights Violation in Kosovo? A Possible Solution against the Weakness of International and Domestic Systems' (Universita Ca'Foscari Venezia 2020) 142 <http://dspace.unive.it/bitstream/handle/10579/19112/876622-1248307.pdf?sequence=2> accessed October 2024.

[38] See preamble of the Republic of Kosovo Constitution

[39] 'Belgrade- Pristina dialogue – The rocky road towards a comprehensive normalisation agreement' *(European Parliament)* https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689371/EPRS_BRI(2021)689371_EN.pdf> accessed 12 October 2024.

[40] European Commission 'Kosovo 2023 Report' COM (2023) [hereinafter Kosovo 2023 Report]

recognised as a potential candidate for EU membership.[41] Below are some of the key justice reform initiatives that have been implemented concerning fighting impunity for war crimes.

1. Institutional Strengthening: Establishing Specialized Departments for War Crimes Adjudication

One of the most visible reform efforts have been the institutional strengthening of the justice system, particularly through the creating of the specialized departments dedicated to the adjudication of war crimes.

The Law on Courts that entered into force in January 2019, foresaw the establishment of the Special Department within the Basic Court of Prishtina and the Court of Appeals. These departments have the competences to adjudicate and decide on cases that fall within the jurisdiction of the Special Prosecution Office of the Republic of Kosovo (SPRK).[42]

The SPRK office, has the authority to deal with criminal offences: war crimes, organized crime, terrorism, corruption and financial crime. It must be noted that within SPRK office since 2016, it exists the Department of War Crimes that deals solely with war crime cases. Similarly, the War Crimes Investigation Directorate has been established within the Kosovo Police. As its name shows, this directorate is projected to investigate solely war crimes.

The creation of dedicated institutions indicates Kosovo's intent to build specialized capacities to address complex crimes. However, specialization alone is insufficient without adequate staffing, training, and inter-institutional coordination.

The European Commission's Kosovo Country Report 2024 noted that the War Crimes Department of the SPRK continues to encounter difficulties in managing its workload. There are over 1000 pending war crimes cases, mainly inherited from the EULEX in 2018. The report also emphasizes the necessity for ongoing training and support for prosecutors and staff, particularly in improving cooperation between police and prosecution.[43] In terms of court judicial procedures, they are carried out with sufficient professionalism by judges promptly.[44] Since the establishment of the Special Department at the Basic Court in Prishtina in 2019, twenty-two legal proceedings concerning war crimes cases in Kosovo have been initiated. By the end of 2023, five of these cases had been resolved with final judgments. Yet, obstacles persist in adjudicating effectively war crime cases.[45] Most of the first-instance judgments are sent to a retrial or significantly modified by the Court of Appeals.

These setbacks suggest inconsistencies in evidence evaluation or legal reasoning at the first-instance level, possibly reflecting the need for further judicial training or stronger prosecutorial case-building.

Generally, concerns remain about the willingness to try members of the KLA. KLA fighters are regarded as war heroes and freedom fighters by large proportion of politicians and society members in Kosovo.[46]

This political and societal reverence creates an environment of selective justice, where prosecutorial discretion may be influenced by popular sentiment rather than legal merit. Such a climate risks undermining the rule of law and the credibility of the judiciary.

2. Legislative Enhancements: Updated to Criminal and Procedural Codes to Combat Impunity for War Crimes

In parallel with the institutional changes, Kosovo has undertaken important legislative reforms to update its criminal and procedural condes in order to more effectively combat impunity for war crimes and align with international standards. The Criminal Code of the Republic of Kosovo entered into force in 2013, which categorized war crimes under the category of criminal offenses against humanity and values protected by international law. This code was drafted in line with international standards and allowed the possibility of imposing life imprisonment on perpetrators of war crimes.[47] Later in 2019, a new criminal

[41] 'European Integration Process' *(Assembly of the Republic of Kosovo)* https://www.kuvendikosoves.org/eng/european-union-integration-process/> accessed 12 October 2024.

[42] Law no.08/L-168 on the Special Prosecution Office Article 9.

[43] Kosovo 2023 Report pg.22-23.

[44] War crimes trials: no visible progress (Humanitarian Law Center Kosovo 2023) <https://hlc-kosovo.org/storage/app/media/Kosovo%20report%202022%20ALB%20SRB%20ENG.pdf accessed 13 October 2024.

[45] *ibid*

[46] Jennifer Mueller, 'Do Rebel Groups Talk the Talk or Walk the Walk? Using and Misusing Human Rights and International Humanitarian Law During Times of Conflict' (2014) 22.

[47] Code no.04/L-082 Criminal Code of the Republic of Kosovo entered into force on the 1ˢ January 2013, <https://gzk.rks-

code further improved entered into force. Yet as regards to war crimes, it had no essential differences from the code of 2013.[48] The same code continues to be into force at the time of writing this paper.

Before these codes, Kosovo used the Provisional Criminal Code of Kosovo and the Criminal Code of the Socialist Federal Republic of Yugoslavia. This transition from Yugoslav to independent Kosovo legal frameworks marks a symbolic and practical departure from the past.

This pertains to the criminal material code, while important updates on procedural code on war crimes are provided in the section below.

The Kosovo government has been working constantly towards reinforcing legislation to tackle impunity for war crimes. Recently, to address impunity for war crimes, Kosovo revised its Criminal Procedure Code (CPC) introducing trials in absentia for war crimes,[49] considering that only a couple of suspects have been tried since the end of the Kosovo war because of a lack of judicial cooperation with Serbia. Since Serbia does not recognise Kosovo's independence, it does not extradite suspects to Kosovo, allowing those indicted to live free. Trials in absentia can be held when the judicial authorities have exhausted the means to ensure the presence of the accused.[50] Under the law, in such cases, the accused is represented by a state-appointed defense attorney throughout the criminal procedure until the final judgment is rendered. Yet, the court must ensure that the accused is aware of his/her charges.[51]

There are controversial opinions on trials in absentia. Some view them as beneficial, seeing them as a way to provide justice and fulfil EU expectations for accountability regarding war crimes. Additionally, trials in absentia document that the crimes have occurred and allow families of victims to use the right of compensation.[52]

Others, however, do not support such trials, as pursuant to the law, a person tried in absentia can request a retrial anytime, resulting in prolonged legal proceedings. Furthermore, the convicted individuals do not serve the sentence due to the lack of cooperation on extraction between Serbia and Kosovo, as such the proceedings will be deemed ineffective.[53]

Another issue that must be noted is that if Kosovo joins the Council of Europe,[54] its citizens will have the right to seek justice from the European Court of Human Rights (ECtHR), an option that has not been possible until now. This would mark a significant development, as individuals tried in absentia could challenge their convictions on the ground of procedural unfairness, especially if their right to be informed of the charges or to be present at trial was not properly guaranteed. As such, any procedural errors concerning the respect for the rights of the accused in trials in absentia could lead to significant financial and time consequences for the country. A good example in this regard is the ECtHR ruling in Sanader vs Croatia case.[55] Sander as a participant in Serb paramilitary forces was sentenced in his absence of war crimes against prisoners of war to twenty years imprisonment. Eighteen years after the verdict was issued, respectively in 2009, Sanader requested a retrial of the case in his presence. The Supreme Court of Croatia rejected his request. Therefore, Sanader took his case to the ECtHR, which in its judgement mentioned that "It has not been shown that he had any knowledge of his prosecution and the charges against him or that he sought to evade trial or unequivocally waived his right to appear in court".[56] As a result, the ECtHR ordered Croatia to pay Sanader 4,000 euros in damages and 2,500 Euros in costs.[57]

Kosovo's legal framework requires the "invitation for the

gov.net/ActDetail.aspx?ActID=2834> accessed 12 October 2024.

[48] Code no.06/L-074 Criminal Code of the Republic of Kosovo<https://md.rks-gov.net/desk/inc/media/A5713395-507E-4538-BED6-2FA2510F3FCD.pdf> accessed 12 October 2024.

[49] Code no.08/L-032 of Criminal Procedure [hereinafter CPC], Article 303, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=61759> accessed 13 October 2024.

[50] Reasonable efforts, as outlined in Article 303 of the CPC, include summoning to appear in court, issuing a court arrest order, searching the accused's address, issuing a court wanted notice, and conducting an informative campaign calling for the accused to surrender to the court's jurisdiction. Additionally, the summons, along with the indictment, will be published on the official website of the State Prosecutor, the court conducting the procedure, and in the Official Gazette, urging the accused to surrender

[51] CPC- Article 303.

[52] Arton Konushevci, 'Ç'efekte kane aktakuzat ne mungese per krime lufte? (*Radio Free Europe*, 8 Maj 2023) https://www.evropaelire.org/a/aktakuzat-ne-mungese-krime-lufte-/32401798.html>, accessed 13 October 2024.

[53] *ibid*

[54] Asambleja Parlamentare e Keshillit te Evropes mbeshtet anetaresimin e Kosovoes, (*Radio Free Europe,* 16 April 2023) <https://www.evropaelire.org/a/asambleja-keshilli-evropes-voton-per-kosoven/32906447.html> accessed 10 October 2024.

[55] *Sanader v. Croatia* [2015] 66408/12.

[56] *Sanader v. Croatia* [2015] 66408/12.

[57] *ibid*

court session be presented in the official newspaper, then posted in the municipality where the accused had their last place of residence, the invitation to be published on the website of the prosecution and the court … [and] the international arrest warrant".[58] Yet, due to the lack of legal cooperation between Kosovo and Serbia it is difficult for the courts to prove that the accused has been informed of charges against him/her and the ongoing procedure. In this way, trials without the presence of the accused might undermine the rights of the accused in criminal proceedings, respectively of effective defence.

All this suggests that Kosovo judicial institutions must learn from Croatia's mistakes in war crimes trials in absentia.[59] It must be ensured that all efforts to secure the presence of the accused have been exhausted, supported by evidence.

It is essential to highlight that trials in absentia provisions in the CPC are in line with Venice Commission recommendations.[60] Until the end of 2024, the prosecution has filed 14 war crime indictments in absentia.[61] The first judgement in absentia was issues in December 2024, resulting in a 15-year imprisonment sentence for the defendant for war crimes committed against the civilian population.[62] Other trials are ongoing.

In sum, while trials in absentia can be a necessary legal tool in the face of political and jurisdictional barriers, they must be handled with exceptional diligence. Kosovo's judiciary must ensure strict compliance with both domestic legal standards and international human rights norms to avoid miscarriages of justice and to protect the integrity of war crimes adjudication. Learning from the shortcomings observed in other jurisdictions—such as Croatia—will be vital for the legitimacy and sustainability of Kosovo's war crimes accountability efforts.

3. Strategic Policy Documents: National Strategies on War Crimes and Transitional Justice

Beyond institutional and legal reforms, Kosovo has attempted to address war crimes accountability through strategic policy documents, aiming to guide long-term efforts in prosecution and transitional justice. In this regard, the Kosovo Prosecutorial Council adopted a Strategy on War Crimes in 2019, which subsequently resulted in a new strategy in 2025.[63] This strategy aimed to prioritise the prosecution of war crimes cases, and emphasizes the chain of command responsibility, focusing on sexual violence and missing persons. Nevertheless, the implementation of the strategy has had limited results due to a lack of support from political levels in both Serbia and Kosovo.[64] Most of the key files, evidence, and suspects remain in Serbia,[65] and there is a lack of judicial cooperation between two countries.[66]

At the national level, war crimes are addressed in the Transitional Justice Strategy, which was approved by the government of Kosovo in 2024. One of the primary goals of the transitional justice strategy is to enhance the prosecutorial and judicial systems, increase the number of police officers involved in the investigation of war crimes, and improve the country's witness protection program.[67] This strategy is a step forward, and as such it is acknowledged in the last EU Country Report; however, it lacks sufficient focus on reconciliation.[68] However, Kosovo has never established a national strategy to tackle war crimes.

The fragmented strategic approach to war crimes and the lack of coordination between Kosovo and Serbia reflect persistent political and institutional challenges that hinder

[58] CPC Article 303.
[59] Xhorxhina Bami and Vuk Tesija,(*Balkan transitional justice*, 20 May 2024) available at https://balkaninsight.com/2024/05/20/kosovo-must-learn-from-croatias-mistakes-in-war-crimes-trials-in-absentia/#:~:text=As%20Kosovo%20increases%20the%20focus,and%20follow%20legal%20procedures%20rigorously> accessed 12 October 2024.
[60] EU Kosovo 2023 Report.
[61] Humanitarian law pg.18
[62] Ibid.
[63] Kosovo Prosecutorial Council, War Crimes Strategy (2025), available at https://prokuroria-rks.org/wp-content/uploads/2025/05/Strategjia-e-Krimeve-te-Luftes-Nr.820.2025-1.pdf> (accessed on 3 July 2025).
[64] Serbeze Haxhaiaj, 'Strategjia e re e Kosoves per krimet e luftes perballet me pengesa politike' (Balkan Transitional Justice, 2019), available at https://balkaninsight.com/sq/2019/03/13/strategjia-e-re-e-kosove-per-krimet-e-luftes-perballet-me-pengesa-politike/ accessed 10 October 2024.
[65] *ibid*
[66] European Commission 'Kosovo 2024 Report' COM (2024) [hereinafter EU Kosovo 2024 Report] pg.29.
[67] Kosovo Ministry of Justice, The Strategy of Republic of Kosovo on Transitional Justice (2024-2034) https://neighbourhood-enlargement.ec.europa.eu/document/download/760aacca-4e88-4667-8792-3ed08cdd65c3_en?filename=SWD_2023_692%20Kosovo%20report_0.pdf accessed 10 October 2024.
[68] EU Kosovo 2024 Report.

accountability and justice. While the inclusion of war crimes within the broader transitional justice framework signals progress, a more inclusive approach in reconciliation measures is essential.

The Challenge of Missing Persons: Implications for Kosovo's EU Integration Process

Another issue closely tight to war crimes and important for Kosovo's EU integration is the matter of missing persons during the Kosovo war. Simmons and Samuels have argued that "one of the most powerful barriers of healing, reconciliation and rebuilding societies … is the psychologically unsettling issue of missing persons.[69]

The unresolved fate of those missing from the conflicts in the 1990s continues to be a crucial issue for countries of Western Balkan. In Kosovo, 25 years after the end of the conflict, over 1,600 people remain missing, the majority of whom are Albanians.[70] The continued absence of answers for the families of the missing deepens the wounds of the past and reinforces inter-ethnic tensions. For many families, the inability to recover the remains of their loved ones or learn the truth about their fate keeps the trauma of war alive in daily life.

The subject of missing persons is also an important component of the EU-facilitated dialogue between Kosovo and Serbia. In 2023, the two parties reached an agreement on a joint Declaration on Missing Persons committing to enhance Kosovo and Serbia's collaboration to resolve cases of missing individuals from the Kosovo conflict.[71] This declaration marked a rare moment of constructive engagement, as the issue of missing persons had been stalled for years. However, the latest EU Report on Kosovo notes that, despite of the formal agreement, the issue of missing persons continues to be a major challenge.[72]

Resolving the fate of the remaining missing persons uncovers a pattern of violence and abuse during the conflict, helping to establish a broader context for war crimes adjudication. As such, it may foster reconciliation between former conflicting parties.[73] Sustained political will, regional cooperation, and international support will be necessary to ensure that the right to truth for the families of the missing.

Lastly, resolving the missing persons case is also a legal obligation under international human rights law. Families of the missing persons have the right to know the fate of their relatives, and states are obliged to provide answers.

Regional Cooperation on War Crimes Adjudication: Political Obstacles and Legal Frameworks Between Kosovo and Serbia

Closely intertwined with the issue of missing persons and broader war crimes accountability is the challenge of regional cooperation. Attempts at cooperation in the punishment of war crimes between the successor states of SFRY have always been a challenge.[74] War crimes, war criminals and war crime trials continue to divide the societies of the former Yugoslavia.

As regards Kosovo, cooperation with Serbia remains challenging because Serbia does not recognise Kosovo's independence. The two countries reached an agreement on mutual legal assistance in 2013 as part of the dialogue mediated by the EU. Later the agreement was amended, allowing the parties to exchange judicial information through representatives of the EU. Based on this agreement, the parties have exchanged information on many civil cases.[75] Yet, practical implementation remains limited. Cooperation on war crimes cases is almost non-existent.[76] Both sides often hesitate to engage due to the

[69] Mary Ellen Keough, Tal Simmons and Margaret Samuels, 'Missing Persons in Post-Conflict Settings: Best Practices for Integrating Psychosocial and Scientific Approaches' (2004) 124 Journal of the Royal Society for the Promotion of Health 271 204-220.

[70] Arton Konushevci, 'Ç'efekte kane aktakuzat ne mungese per krimet lufte? (*Radio Free Europe*, 8 May 2023), available at https://www.evropaelire.org/a/aktakuzat-ne-mungese-krime-lufte-/32401798.html> accessed 9 October 2024.

[71] Declaration on President Aleksandar Vucic and Prime Minister Albin Kurti on Missing Persons, (*European Union External Action*, 2 May 2023), https://www.eeas.europa.eu/eeas/declaration-president-aleksandar-vu%C4%8Di%C4%87-and-prime-minister-albin-kurti-missing-persons_en> accessed 9 October 2024.

[72] EU Kosovo Report 2024, pg. 29.

[73] Janine Natalya Clark, 'Missing Persons, Reconciliation and the View from below: A Case Study of Bosnia-Hercegovina' (2010) 10 Southeast European and Black Sea Studies 425, 432.

[74] Bashkepunimi per rastet e krimeve te luftes kriter per integrimin evropian, (*Radio Free Europe*, 28 May 2022), <https://www.evropaelire.org/a/krime-lufte-ishjugosllavi-/31872893.html, accessed 13 October 2024.

[75] Arton Konushevci, 'Bashkepunimi gjyqesor mes Kosoves dhe Serbise, kryesisht ne leter' (*Radio Free Europe*, 22 October 2023), <https://www.evropaelire.org/a/bashkepunimi-gjyqesor-kosova-serbia/32640930.html> accessed 12 October 2023.

[76] The beginning of a New Phase in War Crimes Trials (Humanitarian Law Center Kosovo 2024) https://hlc-

sensitive nature of the subject. The cooperation between Kosovo and Serbia on war crime cases relies on the political will of both countries.

This ongoing political deadlock illustrates how unresolved sovereignly issue obstruct judicial collaboration and illustrates how unresolved sovereignty issues obstruct judicial collaboration and perpetuate mutual distrust, which ultimately hampers the pursuit of justice. The lack of cooperation not only delays accountability but also deepens societal divisions, making reconciliation more difficult.

As regards to the cooperation with the UNMICT, the EU highlighted that Kosovo justice institutions have good cooperation with the UNMICT in The Hague.[77] Yet, a former Kosovo war crimes prosecutor in a regional conference had noted that for Kosovo prosecution obtaining information from the mechanism is difficult since Kosovo is not part of the UN and it is not recognised by many member states. The prosecutor emphasized that the requests to the mechanism must go through the Ministry of Justice and the EU office in Kosovo.[78] Consequently, the institutions are often hesitant to request because of the sensitive nature of the information.[79]

This situation underscores the practical and diplomatic challenges Kosovo faces in accessing international legal mechanisms, which limits the effectiveness of its prosecutions. The indirect channels for information exchange create delays and discourage full cooperation, weakening the overall justice process.

As the years pass, the memory of the conflict may fade, posing a significant challenge for the adjudication of war crimes. Without concerted efforts of two countries to collaborate, the chances for justice and reconciliation may undermine further.

This fading memory of the conflict increases the urgency of cooperation, as evidence, witness testimonies, and institutional knowledge risk being lost over time. Without proactive bilateral engagement, opportunities for justice are likely to diminish, perpetuating cycles of impunity and mistrust.

Conclusion

Justice for war crimes committed during the Kosovo War has been sough through international, national, and hybrid justice mechanisms. Each of these approaches has achieved varying degrees of success, but they also faced significant limitations. Besides offering justice, the adjudication of war crimes has been vital in promoting the rule of law, accountability, and reconciliation, as emphasized by the EU. Kosovo has been actively reforming its justice system to align with EU standards concerning war crime cases. Furthermore, issues related to war crimes and missing persons have been integral to the ongoing dialogue between Prishtina and Belgrade, facilitated by the EU. Significant developments have been made in aligning the justice system with the EU standards, such as creating the specialized departments for war crimes, updating criminal codes, and introducing trials in absentia. While trial in absentia offer a potential solution for overcoming the lack of cooperation with Serbia, they carry significant legal risks and must be conducted with dull respect for the rights of the accused to avoid future challenges. Additionally, Kosovo has adopted strategic documents which reflect growing institutional commitment to tackling impunity and addressing the legacy of the war. The issue of missing persons and lack of regional cooperation between Kosovo and Serbia remain main challenges. This reflects the broader political deadlock between two countries. Without political will and sustained international support, the prospects for accountability and reconciliation remain limited.

In sum, while Kosovo has made important progress in addressing war crimes and aligning its justice system with EU standards, obstacles remain. Overcoming impunity, and fostering regional cooperation are essential not only for justice, but also for Kosovo's EU integration process and long-term reconciliation. It has been 25 years since the conflict, and Kosovo risks losing the first generation of war dying and remaining with the second generation that recall little. This not only complicates efforts to hold perpetrators accountable but also undermines the broader pursuit of justice and reconciliation in Kosovo.

COMPETING INTERESTS

The author has no competing interests to declare.

REFERENCES

kosovo.org/storage/app/media/Kosovo%20report%202023%20ALB%20SRB%20ENG.pdf accessed 12 October 2024.

[77] EU Kosovo Report 2023.

[78] War Crimes Prosecutions Still Hampered by Lack of Regional Cooperation, (*Balkan Investigative Reporting Network*, 15 May 2023) <https://birn.eu.com/news-and-events/war-crimes-prosecutions-still-hampered-by-lack-of-regional-cooperation/> accessed 13 October 2024.

[79] *ibid*

'Background' (*Kosovo Specialist Chambers & Specialist Prosecutor's Office*, 4 October 2017) <https://www.scp-ks.org/en/background> accessed 28 September 2024

'Bashkepunimi per rastet e krimeve te luftes kriter per integrimin evropian', (*Radio Free Europe*, 28 May 2022), available at https://www.evropaelire.org/a/krime-lufte-ishjugosllavi-/31872893.html, accessed 13 October 2024

'European Integration Process' *(Assembly of the Republic of Kosovo) https://www.kuvendikosoves.org/eng/european-union-integration-process/>* accessed 12 October 2024

'The beginning of a New Phase in War Crimes Trials' (Humanitarian Law Center Kosovo 2024) available at https://hlc-kosovo.org/storage/app/media/Kosovo%20report%202023%20ALB%20SRB%20ENG.pdf

'War crimes trials: no visible progress' (Humanitarian Law Center Kosovo 2023) https://hlc-kosovo.org/storage/app/media/Kosovo%20report%202022%20ALB%20SRB%20ENG.pdf

A war crimes suspect arrested in Kosovo' (*Radio Free Europe*, 12 September 2024) <https://www.evropaelire.org/a/arrestim-i-dyshuar-krime-lufte-/33117654.html> accessed 30 September 2024

About the ICTY` (*ICTY*) <http://www.icty.org/en/about> accessed 25 September 2024

About' *(The International Residual Mechanism for Criminal Tribunals)*

Asambleja Parlamentare e Keshillit te Evropes mbeshtet anetaresimin e Kosovoes', (*Radio Free Europe,* 16 April 2023) <https://www.evropaelire.org/a/asambleja-keshilli-evropes-voton-per-kosoven/32906447.html> accessed 10 October 2024

Bami Xh and Tesija V, 'Kosovo must learn from Croatia's mistakes in war crimes trials in absentia' (*Balkan transitional justice*, 20 May 2024) available at https://balkaninsight.com/2024/05/20/kosovo-must-learn-from-croatias-mistakes-in-war-crimes-trials-in absentia/#:~:text=As%20Kosovo%20increases%20the%20focus,and%20follow%20legal%20procedures%20rigorously> accessed 12 October 2024

Belgrade- Pristina dialogue – The rocky road towards a comprehensive normalisation agreement' *(European Parliament)* https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689371/EPRS_BRI(2021)689371_EN.pdf> accessed 12 October 2024

Bellamy J Alex, 'Kosovo and International Society' (Palgrave Macmillan 2002, London)

Breaking The Silence: Justice for War Victims' (Humanitarian Law Center Kosovo 2024), available at https://hlc-kosovo.org/storage/app/media/Raporti%20vjetor%202024/Kosovo%20report%202024%20ALB%20SRB%20ENG.pdf>

Canova A, 'Kosovo Specialist Court: A New Way to Seek Justice for Unpunished Crimes and Human Rights Violation in Kosovo? A Possible Solution against the Weakness of International and Domestic Systems' (Universita Ca'Foscari Venezia 2020) 142 <http://dspace.unive.it/bitstream/handle/10579/19112/876622-1248307.pdf?sequence=2> accessed October 2024

Cases' (*Kosovo Specialist Chambers & Specialist Prosecutor's Office) <* https://www.scp-ks.org/en/cases> accessed 12 October 2024

Clark JN, 'Missing Persons, Reconciliation and the View from below: A Case Study of Bosnia-Hercegovina' (2010) 10 Southeast European and Black Sea Studies 425

Declaration on President Aleksandar Vucic and Prime Minister Albin Kurti on Missing Persons', (*European Union External Action*, 2 May 2023), https://www.eeas.europa.eu/eeas/declaration-president-aleksandar-vu%C4%8Di%C4%87-and-prime-minister-albin-kurti-missing-persons_en> accessed 9 October 2024

Dickinson L, 'The Relationship Between Hybrid Courts and International Courts: The Case of Kosovo' (2002) 37 New England Law Review 4

EULEX worked very little to address war crimes' < https://sinjali.com/prokurorja-hajdari-unmik-u-dhe-eulex-i-punuan-shume-pak-per-ti-zbardhur-krimet-e-luftes/> accessed 1 October 2024

First Indictment Announced at the Kosovo Specialist Chambers' ASIL <https://www.asil.org/insights/volume/24/issue/23/first-indictment-announced-kosovo-specialist-chambers> accessed 29 September

2024

Greenwood C, 'Humanitarian Intervention, Case of Kosovo' (2002) Finish Yearbook of International Law

Hartman F, 'The ICTY and EU Conditionality' in Judy Batt and Jelena Obradovic (ed), *War Crimes, conditionality and EU integration in the Western Balkans* (Institute for Security Studies, 2009)

Hartmann M, 'International Judges and Prosecutors in Kosovo: A New Model for Post-Conflict Peacekeeping" (United States Institute of Peace 2003)

Haxhaiaj S, 'Strategjia e re e Kosoves per krimet e luftes perballet me pengesa politike' (Balkan Transitional Justice, 2019), available at https://balkaninsight.com/sq/2019/03/13/strategjia-e-re-e-kosove-per-krimet-e-luftes-perballet-me-pengesa-politike/ accessed 10 October 2024

Independent International Commission on Kosovo (ed), *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford University Press 2000)

Infographic: ICTY Facts & Figures` (*ICTY*) <http://www.icty.org/en/content/infographic-icty-facts-figures> accessed 26 September 2024

Keough M, Simmons T and Samuels M, 'Missing Persons in Post-Conflict Settings: Best Practices for Integrating Psychosocial and Scientific Approaches' (2004) 124 Journal of the Royal Society for the Promotion of Health 271

Konushevci A, 'Bashkepunimi gjyqesor mes Kosoves dhe Serbise, kryesisht ne leter' (*Radio Free Europe*, 22 October 2023), available at https://www.evropaelire.org/a/bashkepunimi-gjyqesor-kosova-serbia/32640930.html> accessed 12 October 2024

Konushevci A, 'Ç'efekte kane aktakuzat ne mungese per krime lufte? (*Radio Free Europe*, 8 Maj 2023) https://www.evropaelire.org/a/aktakuzat-ne-mungese-krime-lufte-/32401798.html> accessed 13 October 2024

Konushevci A, 'Ç'efekte kane aktakuzat ne mungese per krimet lufte? (*Radio Free Europe*, 8 May 2023), available at https://www.evropaelire.org/a/aktakuzat-ne-mungese-krime-lufte-/32401798.html> accessed 9 October 2024

Kosovo 2023 Report' (European Commission 2023) available at <https://neighbourhood-enlargement.ec.europa.eu/kosovo-report-2023_en>

Kosovo 2024 Report' (European Commission 2024) available at https://enlargement.ec.europa.eu/document/download/c790738e-4cf6-4a43-a8a9-43c1b6f01e10_en?filename=Kosovo%20Report%202024.pdf

Kosovo Crisis Update (UNHCR, 26 July 1999), available at https://www.unhcr.org/news/kosovo-crisis-update-73 > accessed on 30 June 2025

Kosovo Memory Book' (Humanitarian Law Center Kosovo 2024) available at <http://www.kosovskaknjigapamcenja.org/?page_id=29&lang=de>

Kosovo Ministry of Justice, 'The Strategy of Republic of Kosovo on Transitional Justice (2024-2034)', available at: https://neighbourhood-enlargement.ec.europa.eu/document/download/760aacca-4e88-4667-8792-3ed08cdd65c3_en?filename=SWD_2023_692%20Kosovo%20report_0.pdf

Kosovo Prosecutorial Council, War Crimes Strategy (2025), available at https://prokuroria-rks.org/wp-content/uploads/2025/05/Strategjia-e-Krimeve-te-Luftes-Nr.820.2025-1.pdf>

Kosovo Specialist Chambers & Specialist Prosecutor's Office'(*Kosovo Specialist Chambers & Specialist Prosecutor's Office),* https://www.scp-ks.org/en> accessed 14 October 2024

Mueller J, 'Do Rebel Groups Talk the Talk or Walk the Walk? Using and Misusing Human Rights and International Humanitarian Law During Times of Conflict' (2014)

Murati B, 'Layered Justice: Assessing the Acceptance of the Multiple International Criminal Justice Mechanisms in Post-War Kosovo' (2017)

Parliamentary Assembly of the Council of Europe. (2021). *The Protection of witnesses as a cornerstone for justice and reconciliation in the Balkans* (Doc. 12581), available at https://pace.coe.int/en/files/12581/html?utm_source>

Reka B, 'UNMIK as International Governance in Post-war Kosova: NATO's Intervention, UN Administration and Kosovar Aspirations' (Logos, 2003, Skopje)

Transitional Justice in Kosovo' (KIPRED 2008)

United Nations Security Council Resolution 1244 (1999) UN Doc S/RES/1244, available at

https://unmik.unmissions.org/sites/default/files/old_dnn/Res1244ENG.pdf

War Crimes Prosecutions Still Hampered by Lack of Regional Cooperation, (*Balkan Investigative Reporting Network*, 15 May 2023), available at https://birn.eu.com/news-and-events/war-crimes-prosecutions-still-hampered-by-lack-of-regional-cooperation/> accessed 13 October 2024

What is EULEX'? < https://www.eulex-kosovo.eu/?page=2,60> accessed 1 October 2024

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The Role of Historic Identities in Shaping Post-Communist Constitutional Identity in Hungary, Serbia, and Montenegro: A Comparative Analysis

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ABSTRACT

In the last two decades, the question of dynamics behind the establishment of constitutional identities, especially ones concerning the relationship between constitutional identity and pre-constitutional and extra-constitutional identities raised significant scholarly attention. Following this interest, this article will examine the role pre-communist constitutional identities and traditions had in shaping the novel post-communist constitutional identity in three countries: Republic of Hungary, Republic of Serbia and Montenegro. We will first examine the manner in which these three countries established a discontinuity with their communist past. Afterwards, we will investigate to what extent, and in what manner, did these countries draw upon or reaffirm their pre-communist identity in the process of shaping their novel post-communist constitutional identity. In doing so, we will pay special attention to two constitutional factors – the definition of the constitutional subject and the relationship between the state and the church. After we compare the different approaches, we will conclude that the legitimacy of the new constitutional identity and in turn the overall stability of the constitutional project noticeably relies on the extent to which the constitution makers successfully reintegrated and reinterpreted different historic identities.

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Introduction

In his well-known work "The Identity of the Constitutional Subject: Selfhood, Citizenship, Culture, and Community" (2010), Michel Rosenfeld introduces us to the dynamics between the "constitutional identity" and, what he calls, "preconstitutional and extraconstitutional" identities. These two categories of identities are different but intertwined. Constitutional identity is the identity which is set up by a constitution, while pre-constitutional and extra-constitutional identities are those which exist in a society prior to and/or independent of a constitution. In Rosenfeld's own words: "constitutional identity and the constitutional subject first emerge as a lack, as an empty place holder, to be filled through a process of negation, deconstruction, reconstruction, reincorporation and recombination"[1]. It is exactly the pre-constitutional and extra-constitutional identities that are among the "raw" elements which are being, through the constitutional effort, "refined" and "reinterpreted" into a constitutional identity. Although somewhat ambiguous, the categories of pre-constitutional and extra-constitutional identities can cover a vast array of possible identities. It is safe to perceive them as cultural, religious and ethnic identities of a society.

However, what is important is that in each case, the constitutional identity is inherently different from these societal identities. Each constitution introduces a set of values and ideas which it wants to implement into the reality. In reality, it is in this discrepancy between what is (ger. *Sein*) and what is to be (ger. *Sollen)* that the normative function of law in general, and in specific of the constitutional order takes place. Within this distinction, the extra-constitutional and pre-constitutional identities fall within the category of *Sein,* while the category of constitution or, better said in this context, the constitutional project – falls within the category of *Sollen.* In geometrical terms, the function of the law is to drive the societal behavior from point A (that what is, *the Sein,* the factual point) to point B (that what is to be, *the Sollen*, the nominal point). If the distance between point A and point B were to be set to zero, then the legal order would be of zero potential and thus of no effective existence in comparison to non-legal social orders. On the other hand, if point A and point B are set too far away, the effort which needs to be put into the realization of the legal project is all the greater. In case the distance is too great, then the point B, i.e. the constitutional project, can amount to a simple, unachievable, utopia. It seems that the wisdom of the constitution makers is to achieve the right equilibrium between the nominal and the factual. In other words, it is to make the nominal different, but also achievable within the context of the factual.

Rosenfeld explains this in the following terms: "At the same time that a constitution must be set (at least in part) against the constituent group's identity, it must not veer so far off from that identity as to become non-viable and hence incapable of genuine implementation. (...) Similarly, if certain rights (…) go so much against the core identity of the polity that they remain largely unobserved and unenforceable, then they are more likely to contribute to undermining rather than reinforcing the prevailing constitutional order."[2]

The era of post-communist state-building and restoration provided us with numerous examples for analysis. Many countries, especially in Eastern Europe, were faced with the challenge of developing a post-communist identity. This post-communist identity was to be, naturally, inspired by the liberal democratic constitutional values and in such opposed to communism. However, each country had an extra flavor of its own particular societal and historical experience and identity, or what Hörcher calls "reservoir of traditional values",[3] which needs to be expressed and/or taken into account in the new constitutional project. Some societies were heterogeneous, others were more homogenous. Some countries, even, had a pre-communist state identity and ideology which they now, could either "resurrect" or simply "reinterpret" in accordance with the values of liberal democracy. Such countries were faced with three normative needs in comparison to which they would form their novel constitutional identity. These three needs could be summed up as: 1.) achieving discontinuity with communism, 2.) establishing liberal democracy, 3.) expressing the state's particular cultural and historical identity.

Our thesis is that a new constitutional project should take into account all these three principles and achieve a suitable equilibrium between them, in order to form a legitimate and cohesive constitutional identity. This equilibrium is important since the constitution makers can

[1] Rosenfeld, Michel. *The Identity of the Constitutional Subject: Selfhood, Citizenship, Culture, and Community,* Routledge, New York, 2010 , p. 244.
[2] *Ibid*, 11.
[3] Hörcher, Ferenc. "7 Is the Historical Constitution of Hungary Still a Living Tradition? A Proposal for Reinterpretation" In *The Concept of Constitution in the History of Political Thought* (*ed*. A.Górnisiewicz and B. Szlachta, 89-112), De Gruyter Open Poland, Warsaw, 2022, p. 92.

"borrow legitimacy" from cultural or historical revival in their attempt to establish principle number 1 and 2 – forming discontinuity from communism and establishing liberal democracy. On the other hand, if the cultural revival is to be too stressed, it could jeopardize the realization of this objective, especially if a particular country historically nurtured forms of government which are incompatible with liberal democracy. Same way, if the constitution-makers project a constitutional order which is too abstract and distant to the average citizen, not expressing their cultural and historical identities to a sufficient degree, it is safe to assume that citizens will feel alienated to such constitutional order, failing to provide it with suitable cohesion and legitimacy.

We will test our thesis on the example of three countries: Hungary, Republic of Serbia and Montenegro. All these three countries possessed a pre-communist statehood and state identity. All these three countries, as it will turn out, took different approaches towards their historical and cultural identities in their constitutions. Through our examination, we will point out the eventual shortcomings and/or advantages of each of these approaches in the context of producing legitimacy and cohesion of the post-communist constitutional project.

Results

The Case of Hungary

The development of the constitutional identity of Hungary can be traced in two steps. The first one is one starting from 1989 up to 2011. In these two decades, it seems that Hungarian constitution-makers foremost relied on establishing discontinuity with the communist identity and implementing values of western liberal democracy. This endeavor was done in a process of amendments to the old constitution, which, despite not producing a formally novel constitution, did change the old one up to the point that it was famously noted that the only provision that remained unchanged was the one prescribing that the capital of Hungary is Budapest.[4] The change of content implied the abandonment of the communist identity of the constitution and the introduction of the liberal democratic one. Rosenfeld qualified the particular method of post-communist constitution making which occurred in Hungary as "pacted transition", describing it in the following terms: "a new conditional order was crafted as a result of roundtable negotiations between a politically weakened communist leadership and an ascending and invigorated non-communist opposition that lacked the means to gain power through force".[5]

However, while undoubtedly achieving the goal of introducing the values of western liberal democracies, it was noted that this approach had one shortcoming: "One of the key problems of the 1989/1990 Hungarian constitution was that ordinary citizens could hardly identify with the view of politics that it presented. Instead, the general public regarded the document as the constitution of law professors, legal experts and lobby groups primarily interested in individual rights.".[6] To put it in the terms of the three previously presented "vectors" of post-communist constitution making, the constitution of Hungary from 1989/1990, while achieving discontinuity with communist tradition and implementing values of western liberal democracies, had the shortcoming of not addressing the specific cultural and historic background of Hungary to the appropriate extent.

This shortcoming was remedied in the 2011 Constitution (Fundamental Law) and its subsequent amendments. The preamble of the novel constitution, known as "The National Avowal",[7] contains detailed reference to Hungarian historical identity, including its historical constitution as well as the doctrine of the "Holy Crown". The preamble makes it explicit that the *Sollen* of the Hungarian constitutional project is to provide for a "spiritual and intellectual renewal" of the nation after "the decades of the twentieth century which led to a state of moral decay".[8] This spiritual and moral renewal is to be achieved with respect to the historical tradition of Hungarian statehood and its identity. Therefore, the preamble proclaims pride in the fact that "King Stephen built the Hungarian State on solid ground and made our country a part of Christian Europe one thousand years ago", it recognizes the "role of Christianity in preserving nationhood", while taking on itself the commitment of "promoting and safeguarding" Hungarian heritage, language, culture and other assets.[9]

[4] Rosenfeld M. 2010, p. 31.
[5] *Ibid,* p. 198.
[6] Hörcher F, 2022, p. 108.
[7] For a detailed study of the Preamble, *see*: Hörcher, Ferenc. "The National Avowal." *Politeja*, no. 17, 2011, pp. 19-38.
[8] Fundamental Law of Hungary, the official English translation of the Hungarian constitution, up to the 9th amendment is available at: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2021)046-e (accessed on 8th of December 2024).
[9] *Ibid.*

The Fundamental Law makes reference to the Hungarian historical constitution and the doctrine of the Holy Crown, "which embodies the constitutional continuity of Hungary's statehood and the unity of the nation". The Fundamental Law is presented as "an alliance of Hungarians of the past, present and the future. It is a living embodiment of the nation's will, an expression of the ideals by which we collectively aspire to live". In addition to this, the Constitution makes a sharp discontinuity with the communist era, explicitly stating that it does not recognize the communist constitution of 1949 and its subsequent tyrannical rule, proclaiming it invalid, highlighting that the country's self-determination had been lost in 1944 and only regained in 1990, which it considers to be the "the beginning of our country's new democracy and constitutional order."

It is clear that the novel Hungarian constitution decided to put the historical and cultural identity, as well as moral and spiritual renewal of the Hungarian nation in the center piece of its constitutional identity. The Constitutional Court of Hungary in its decision from 2011 ruled that the "Hungarian self-identity" is a fundamental value which is not made, but merely acknowledged by the Fundamental Law.[10] In context of such determination, Szente noticed that it can be said that the concept of constitutional identity, possess a "kind of transcendence over the constitution",[11] providing a link between the constitutional text and that what Hörcher called "reservoir of traditional values" of Hungary.[12]

While the legacy of the Fundamental Law of Hungary remains to be assessed through the life of the constitutional subject, it seems that its historical and cultural determinations do not cause significant disputes in Hungarian society. It seems that even the authors which are critical of the new Constitution do not present it as being unpopular, rather the contrary.[13]

Questions can, of course, be raised regarding the exact nature and place of the concepts such as the historical constitution and the doctrine of the Holy Crown within the contemporary Hungarian constitutional identity.[14] Such questions can also be posed regarding the exact meaning of Christian values according to the Fundamental Law, especially in the context of the fact that majority of the Hungarians, according to the latest population census, do not associate themselves with a specific religion.[15] It seems that the reference to Christianity isn't meant to associate with any concrete Christian church or denomination, but rather to Christian historical and cultural heritage in general.

In conclusion, it can be said that the shift from a constitutional identity which was primarily defined in liberal terms through its rejection of the communist legacy, to a constitutional identity which, in addition to negation of communism, also positively promotes a specific understanding of a Hungarian cultural and historic "self-understanding", successfully serves the purpose of legitimizing the legal order and fostering social cohesion of contemporary Hungary. With that being said, Hungary can be seen as an example of a successful valorization of pre-constitutional and extra-constitutional identities in the project of building a new constitutional identity.

The Case of the Republic of Serbia

The Constitution of the Republic of Serbia from 2006 is not the first post-communist constitution of Serbia. It was adopted after the 1990 Constitution of Serbia,[16] which effectively introduced principal discontinuity with the communist tradition, introducing liberal democratic values such as parliamentary democracy, market oriented economy and respect of private property. The 1990 Constitution of Serbia was, however, adopted while Serbia was still a part of the Socialist Federal Republic of Yugoslavia (SFRY). It cannot be said that this Constitution contained strong expressions of Serbia's national and

[10] See *par.* 67 of Alkotmánybíróság (Constitutional Court of Hungary*). 22/2016. (XII. 5.) AB határozat*. December 5, 2016., *Internet,* available at: https://njt.hu/jogszabaly/2016-22-30-75. (accessed 9th of July 2025); *also* Szente, Zoltán. "Constitutional identity as a normative constitutional concept", *Hungarian Journal of Legal Studies* 63, 1, 2022, p. 12.

[11] *Ibid.*

[12] F. Hörcher, Ferenc. 2022, p. 92.

[13] Bard, Petra; Chronowski, Nora; Fleck, Zoltán. "Inventing Constitutional Identity in Hungary", *MTA Law Working Papers 2022/6*, p. 11.

[14] *See:* F. Hörcher, 2022; Bard P, Chronowski N. and Fleck Z, 2022, pp. 3-15.

[15] According to the 2022 population census, 16.1% of Hungarians identitifed as not belonging to any church or denomination, while 40.1% of them gave no answer regarding their religious identity. *See: Key data on settlements, Census 2022, Internet,* available at: https://nepszamlalas201622.ksh.hu/eredmenyek/vizualizaciok/a-telepulesek-legfontosabb-adatai/index_en (accesed on 8th of December 2024)

[16] Ustav Republike Srbije (Constitution of the Republic of Serbia) („Službeni glasnik Republike Srbije", broj 1/1990), the English translation of the Serbian 1990 constitution is available at: https://www.worldstatesmen.org/Serbia_const_1990.htm (accessed on 8th December 2024)

historical traditions or identities. It is only in the preamble that Serbia is defined as a "democratic State of the Serbian people". The normative part of the constitution, however, defined the country as civic: "a democratic State of all citizens living within it, founded upon the freedoms and rights of man and citizen, the rule of law, and social justice." (Article 1). It is only in Article 72, par. 2 that specific national commitment to Serbs is made, through the introduction of the right and duty of the Republic of Serbia to "maintain relations with the Serbs living outside the Republic of Serbia in order to preserve their national and cultural-historical identity." Regarding religion, Article 41 of the 1990 Constitution introduced the freedom of religious belief as well as separation of church and state, noting that the state can, however, financially support religious communities.

The 2006 Constitution of the Republic of Serbia was the first post-communist constitution of the Republic of Serbia as an independent state. It can be noticed that, in comparison to the 1990 Constitution, the 2006 constitution contained a stronger acknowledgement of the historical national identity of Serbia, insofar as it stated that the Republic of Serbia is: "a state of Serbian people and all citizens who live in it" (Article 1). Therefore, Serbia is defined as a national state of the Serbian people (Serbs) but also a state of all its citizens.[17] However, it is safe to say that the Constitutional model of Serbia, even after the 2006 Constitution, remained more civic than national. The Article 48 of the Constitution prescribes that: "The Republic of Serbia shall promote understanding, recognition and respect of diversity arising from specific ethnic, cultural, linguistic or religious identity of its citizens through measures applied in education, culture and public information". In fact, the only provision in the Constitution which seems to constitute a special treatment of Serbs is not directed towards citizens of Serbia, but is rather directed externally, towards Serbs who live outside of Serbia. Repeating the Article 41 from the 1990 Constitution, Article 13 par. 2 of the 2006 Constitution states that "The Republic of Serbia shall develop and promote relations of Serbs living abroad with the mother state".[18] It is noteworthy that the 2006 formulation defines Serbia as "mother state" of all Serbs, which implies a stronger commitment then the 1990 formulation, which did not explicitly classify Serbia in those terms. The change from simply a country which helps Serbs outside of Serbia preserve their national, cultural and historical identity, to the "mother state" of all Serbs can also be interpreted as a step towards stronger affirmation of Serb national identity within the 2006 Constitution. However, other than that, no strong references aimed at to promotion of specific Serb national identity are made in the Constitution.

If the Constitution of Serbia emerged as a "empty placeholder", then the later political life of this country, it can be argued, determined the nuances of its constitutional identity. The determination of Serbia being "mother state of Serbs" was further developed through legislative, specifically the Law on the Citizenship of the Republic of Serbia, which enables Serbs living outside of Serbia to gain the right to citizenship of Serbia in a simplified process.[19] It is also promoted through a series of educational and cultural privileges Serbia provides to Serbs living abroad, as well as public manifestations and holidays. In 2020, Republic of Serbia together with Serb entity from Bosnia and Herzegovina, Republic of Srpska, established joint celebration of the Day of Serb Unity, freedom and national flag.[20] In 2024, the All-Serb Assembly was called for the first time in Belgrade, which adopted a "Declaration on the protection of national and political rights and the common future of the Serb people", promoting the need for the protection of cultural and political rights of all Serbs, as well as their shared national identity.[21]

While it seems that the national flavor of the 2006

[17] According to Article 47, line 2 of the Constitution of the Republic of Serbia: "no person shall be obliged to declare his national affiliation". Therefore, Serbia is a "civic" country insofar as it is a country of all of its citizens without any discrimination in respect of the ethnic, religious or other identity of its citizens. This means that the citizens of Serbia who are Serbs do not gain any special status based on their ethnic identity. As is explained in this chapter, the only special treatment of Serbs which the 2006 Constitution provides is directed towards Serbs who are not citizens of Serbia, as they are put in a privileged position in regards of the possibility of gaining citizenship of the Republic of Serbia or other rights within the country.

[18] The first paragraph of this Article makes the distinction between "Serbs" and "Citizens of Serbia", with the latter falling, regardless of their national identity, under the protection of the Republic of Serbia (art. 13, par. 1).

[19] Article 23, Zakon o državljanstvu Republike Srbije ("Službeni glasnik Republike Srbije",br. 35/2004, 90/2007 i 24/2018)

[20] *See:* Stopić, Zvonimir. „Bosnia-Herzegovina political briefing: The Day of Serbian Unity, Freedom and the National Flag", Weekly Briefeing, China-CEE Institute, Vol. 44, No. 1 (BH), 2021, available at: https://china-cee.eu/wp-content/uploads/2022/08/2021p10_BosniaHerzegovina.pdf (Accessed 9th of December 2024).

[21] The text of the Declaration is available in Serbian on: https://www.predsednik.rs/pres-centar/saopstenja/deklaracija-o-zastiti-nacionalnih-i-politickih-prava-i-zajednickoj-buducnosti-srpskog-naroda (Accessed 9th of December 2024).

Constitution is undisputable, its relation with religious identities caused much more scientific and political interested. Namely, the 2006 Constitution determined Serbia as a "secular country" in which no "no religion may be established as state or mandatory religion" (Article 11, par. 3). The 2006 Constitution, unlike the 1990 one, did not explicitly prescribe that state can financially help religious communities. This caused debates regarding what exactly is to be understood under "secularity" in terms of the 2006 Constitution. The immediate cause for this discussion was the Law on Churches and Religious Communities from2006 (LCRC).[22] This law was adopted a couple of months prior to the 2006 Constitution, and the question of its validity was posed only after the adoption of the new Constitution. LCRC contained provisions that the state can financially help churches and religious communities, also granting them tax allowances and social rights to the clergy. The question remained – can such provisions remain in power after the adoption of the 2006 Constitution which no longer explicitly recognized the possibility of cooperation with religious communities? In other words, was the omission of these provisions meant to be interpreted as a step towards a stricter separation of religious communities and state?

The same question applied to the fact that LCRC recognized three categories of religious communities, following the criteria of their historical presence in Serbia: traditional churches and religious communities, confessional communities and "other" or rather "new" churches and religious organizations. Traditional churches and religious communities were those denominations with "centuries-long historic continuity in Serbia". Among the traditional churches, the law listed foremost the Serbian Orthodox Church (SOC), to whom it, in a separate Article recognized the "highly significant historic, nation-building and civilization-building role in forming, preserving and developing of the Serbian national identity" (Article 11). In addition to SOC, as traditional churches and religious communities, it recognized the Roman Catholic Church (RCC), the Islamic Community, Jewish Community and a number of protestant churches.[23] In addition to the traditional churches and religious communities, the Law recognized "non-traditional" denominations, which fell under the categories of "confessional communities" which were granted legal subjectivity pursuant to the prior Yugoslav laws on religious freedoms from 1953 and 1977 (Article 16), and "new" churches and religious communities which were to be registered in accordance with this law. According to LCRC, the traditional religious communities only filed an application to be registered, while the non-traditional religious communities had to file a request for registration, proving that they meet a number of criteria set by LCRC.[24] The foundation of such "categorization" of religious communities was also to be problematized, as it would be claimed that it implies a certain level of "privilege" which has no basis in the text of 2006 Constitution.

It was argued that the new Constitution brought with it a break from the previously established regime in state-church relations, by enforcing a strict separation of church and state instead of a cooperative separation of the 1990 Constitution of Serbia. The argument for this claim was, as was said, the fact that the new Constitution omitted the provision according to which "the state can financially help religious communities". Furthermore, it was claimed that the classification of churches and religious communities in different categories according to their historical seniority and using such a distinction as a basis for distributing additional obligations on the "non-traditional denominations", is not in line with the constitutional principle of equality of denominations.[25]

The National Assembly of Serbia, as well as some authors, didn't share such views. As one of the participants in the discussion before the Constitutional Court and the ensuing scientific debate noticed, this discussion was a "proof that secularity in Serbia is being understood quite differently, and that the a priori stances on this question which is ultimately political, and its divergent interpretations, more often than on serious theoretical foundations, are based on prejudices which strongly influence even the stances and legal discussions in the country's top body tasked with protecting constitutionality and legality".[26] This debate, therefore, touched upon the self-understanding of what

[22] Zakon o crkvama i verskim zajednicama ("Službeni glasnik Republike Srbije", ", br. 36/2006), the translation of the law is available at: https://licodu.cois.it/?p=1448&lang=en (accessed 8th of December 2024).

[23] Specifically: Slovakian Evangelist Church a.v, Christian Reformist Church and the Evangelist Christian Church a.v (Article 10, par. 1).

[24] Marković, Vasilije; Romić, Marko. "O ustavnosti registrovanja crkava i verskih zajednica - prilog proučavanju državno-crkvenog prava." *Strani pravni život*, no. 1 (2020): pp. 50-51.

[25] See: Marinković, Tanasije. "Prilog za javnu raspravu o ustavnosti Zakona o crkvama i verskim zajednicama," *Anali Pravnog fakulteta u Beogradu*, vol. 59, 2011, no. 1, pp. 367-385,.

[26] Avramović, Sima. „Poimanje sekularnosti u Srbiji – refleksije sa javne rasprave u Ustavnom sudu", *Anali Pravnog fakulteta u Beogradu* vol. 60, no.2, 2011, 280.

secularity means in Republic of Serbia. Ultimately, the Constitutional Court of Serbia reached a decision which found that the law to be in line with the Constitution, stating that "according to the opinion of the Constitutional Court, the Constitution of the Republic of Serbia from 2006 opted for the system of cooperative separation", further elaborating that the constitutional provisions "do not imply a system of the complete separation of church and state".[27] With this decision, as Đukić notices, the "uncertainties about the meaning of the term 'secular state' in the 2006 Constitution of the Republic of Serbia were resolved".[28]

The cooperation of church and the state in Serbia, next to its legal dimensions, is evident in the public sphere. The custom of celebrating religious holidays (*slava)* of different municipalities and state institutions emerged in the post-communist decades. Next to this, the presence of state official in religious celebrations became normalized. The support for the SOC manifested itself also through the construction of the Saint Sava Cathedral in Belgrade, as well as other projects of joint interests. However, it is safe to note that the "constitutional we" of Serbia does not overlap with the "religious we" of the SOC. Or, in the language of the Constitutional Court of Serbia: "there is no state church and no identification of the state with a particular religion or religion in general".[29]A good paradigm of this divergence is manifested through the interesting case was the erection of the monument to Stefan Nemanja, the founder of medieval Serbian dynasty of Nemanjić. Stefan Nemanja, next to being a ruler, also became towards the end of his life a monk, later venerated as Saint Simeon the Myroblyte. Stefan Nemanja, or rather Saint Simeon the Myroblyte, holds a central place both in the Serbian statehood and religious identity. This was reflected in the fact that the initial design of the monument in Serbia's capital of Belgrade had Stefan Nemanja holding a cross in his right arm. However, in the final design, the cross was replaced with a sword. This move was explained by arguing that, since Stefan Nemanja "was both the founder of Serbian statehood and spirituality, the idea of statehood prevailed, and it was not accomplished by the (…) cross, but, as always, by sword".[30] This move can be interpreted as a move towards building a Serbia's self-understanding in a manner independent of its religious undercurrent.[31]

It can therefore be concluded that the constitutional identity of contemporary Serbia, although remaining different from them, contains a noticeable acknowledgement of Serbia's pre-constitutional and extra-constitutional identities, foremost its national (Serb ethnic identity) and religious one (Serbian Orthodox identity). This acknowledgement allows the state to nurture a link between itself and Serbia's major historical identities, foremost national and religious one, strengthening the latter while also using them as a source of its own legitimation. However, the fact that these identities are not placed as dominant pieces of contemporary Serbian constitutional identity, allows Serbia to define itself as a civic and pluralist country. It seems that in Serbia, the „light link" between the historic values and the constitutional identity successfully manages to serve the purpose of legitimizing the legal order and achieving a sufficient degree of social cohesion, while not overreaching to the extent which would undermine its civic and pluralist character, generating dissonance or division within the society. The fact that the Serbia achieved a satisfying balance between the historical and constitutional identity is also proven by the fact that the only revision (2021) of the Constitution of the Republic of Serbia was directed towards ensuring better realization of rule of law and independence of judiciary, while no greater discussions concerning its identitarian provisions have risen in the

[27] Odluka Ustavnog suda Republike Srbije br. IUz-455/2011 ("Službeni glasnik Republike Srbije"" br. 23/2013).

[28] Đukić, Dalibor. „The Legal Regulation of Religious Symbols in the Public Sphere in Serbia" , *Religious Symbols in the Public Sphere Analysis on Certain Central European Countries* (*ed*. Paweł Sobczyk), Ferenc Mádl institute of comparative law – Central European Academic Publishing, Budapest – Miskolc, 2021, p. 146.

[29] Odluka Ustavnog suda Republike Srbije br. IUz-455/2011 ("Službeni glasnik Republike Srbije"" br. 23/2013).

[30] Novi Standard, *Zašto „Stefan Nemanja" drži mač a ne krst?,* Internet, available at: https://standard.rs/2021/01/26/zasto-stefan-nemanja-drzi-mac-a-ne-krst/ (accessed 9th of December 2024).

[31] Đurić concludes that „the fact that Serbia is a secular state which does not identify with one specific, concrete, religion and in which exists a clear constitutional expression of the awareness of the pluralism of religious identities in the state as well as of the determination that they be perserved; does not collide with certain, strong influence of religious heritage on the legal treatment of state symbols as well as public holidays, nor is it incompatable with the structure of state-church relations, which can be determined as cooperative separation - and which, in a specific way, proves that religion is included into the domain of what is to be considered constitutional identity", see: Đurić, Vladimir. "Religija i ustavni identitet", *Zbornik radova sa međunarodne konferencije posvećene desetogodišnjici izdavanja časopisa Politikologija religije*. Centar za proučavanje religije i versku toleranciju – Fakultet političkih nauka u Beogradu, Beograd, p. 246.

recent years.

The Case of Montenegro

Montenegro's first post-communist constitution was the 1992 Constitution of the Republic of Montenegro.[32] At the time of its adoption, Montenegro was, together with Serbia, one of two members of the Federal Republic of Yugoslavia (FRY). The 1992 Constitution introduced the basic principles of liberal western democracies, such as political pluralism, free market, private property etc. The preamble of the 1992 Constitution determined Montenegro to be formed on the basis of the "historical right of the Montenegrins", the normative part of the Constitution, however, determined the country as civic, in which the citizens were carriers of the sovereignty (Article 2). The official language of the Republic of Montenegro was Serbian language in its "iekavan dialect" (Article 9). The Constitution made reference to the three largest religious denominations in the country: "The Orthodox Church, Islamic religious community and the Roman Catholic Church" (Article 11), although it did not grant them any recognizable rights in comparison to other religious communities.

After Montenegro gained its independence in 2006, it adopted the 2007 Constitution of Montenegro.[33] The new Constitution of Montenegro proclaimed Montenegro to be a "civic" country in which no specific collective (*ethnos*) is the carrier of sovereignty, but rather the individual "citizen".[34] Alongside this, the Constitution proclaimed Montenegro to be a secular country, omitting any mention of traditional or dominant religious denominations. With that being said, it can be estimated that unlike the of Hungary and Serbia, whose current constitutions promote a constitutional identity which is, to a bigger or lesser degree, linked with specific historical identities of these countries, Montenegro chose to develop a constitutional identity which omits explicit links with its historic identities.

The difference between the approaches can be explained by the fact that Montenegro, in comparison to the two previously examined countries, is noticeably more heterogeneous. Ever since its independence, Montenegro, according to official data, had no ethnic or linguistic majority. According to the latest population census, the national make-up of Montenegro is: 41.12% Montenegrins, 32.93% Serbs, 9.45% Bosniaks, 4.97% Albanians, etc. The linguistic make-up of Montenegro is also fragmented, and at the same time does not correspond to the national make-up: 43.18% of inhabitants speak Serbian, 34.52% speak Montenegrin, 6.97% speak Bosnian and 5.25% speak Albanian. Montenegro's only majority is the religious majority – with 71.10% of its population being adherents of the Eastern Orthodox Church.[35] The vast majority of the Eastern Orthodox Population of Montenegro identifies itself as adherents to the Serbian Orthodox Church (SOC). Although the official statistic did not collect data in this regard, relevant studies suggest that over 90% of Orthodox identify with the SOC, while less than 10% identify with the uncanonical Montenegrin Orthodox Church.[36]

The 2007 Constitution makers wanted to overcome the fact that Montenegro is a nationally and linguistically heterogeneous country by constituting a *civic* (demos) identity of the country, according to which no individual nation (*ethnos*) inhabiting Montenegro would be a constituent nation or a carrier of sovereignty. The carrier of sovereignty would, rather, be individual citizens, meaning that Montenegro would foremost present a *union of abstract citizens* regardless of their national, linguistic or religious identities.[37] The idea of a civic constitutional identity, however, was from the offset criticized as being inconsistently implemented through the constitutional text. The constitutional identity projected by the new Constitution was criticized as engaged rather than neutral in terms of its identitarian provisions. One of most

[32] Ustav Republike Crne Gore ("Službeni glasnik Republike Crne Gore", br. 48/92) An english translation of the 1992 Montenegro Constitution is available at: https://www.venice.coe.int/webforms/documents/?pdf=CDL(2005)096-e (acccessed 8th of December 2024).

[33] Ustav Crne Gore (Constitution of Montenegro) ("Službeni list Crne Gore", br. 1/2007 i 38/2013), the english translation is available at: https://www.constituteproject.org/constitution/Montenegro_2013 (accessed on 8th of December 2024).

[34] Article 2, line 1, Constitution of Montenegro.

[35] Montenegrin office for statistics – MONSTAT, *Release 135/2023 - The 2023 Census of Population, Households, and Dwellings Population of Montenegro by National, i.e. Ethnical Affiliation, Religion, Mother Tongue, and Language a Person Usually Speaks*, 2024. Internet: available at: https://www.monstat.org/uploads/files/popis%202021/saopstenja/SAOPSTENJE_Popis%20stanovnistva%202023%20II_ENG.pdf (accessed on 8th of December 2024).

[36] Bešić, Miloš. *Gdje je crnogorsko društvo 16 godina od obnove državne nezavisnosti? Analiza trendova političkog javnog mnjenja Crne Gore*, Centar za demokratiju i ljudska prava – CEDEM, 2022, pp. 24-25.

[37] Šuković, Mijat, *Ustavno pravo*, CID, Podgorica, 2009, pp. 181-187.

criticized decisions was that according to which the official language of the state was determined as "Montenegrin". This determination was criticized because of the fact that at the time of the Constitution's adoption, majority of citizens spoke the Serbian language, while only a minority of citizens spoke the Montenegrin language.[38] The decision to call the official language "Montenegrin", was thus judged as an attempt to impose such language on the majority of citizens, and in consequence impose the Montenegrin ethnic identity on citizens of Montenegro who didn't identify themselves as ethnic Montenegrins. In the wake of the results of the 2022 population census results, with Serbian being the most numerous languages in Montenegro; new calls to amend the Constitution in a manner which would acknowledge this fact have risen.[39]

However, the issue of linguistic identity of Montenegrin citizens is an ongoing topic in Montenegro, which remains to be assessed in the future. What can be assessed at this moment is how the dynamics between the projected constitutional identity of Montenegro and the religious identity of its citizens influenced the legitimacy and political stability of the country. According to the aforementioned statistics, the sole identity which is common to the majority of Montenegro's citizens is their religious identity as Orthodox Christians – with 71.10% of citizens identifying as such, the absolute majority of them associating themselves with the Serbian Orthodox Church (SOC). According to sociological studies, the SOC is traditionally among the institutions with the highest percentage of public trust in Montenegro. Starting from 2012, SOC overpassed the trust in both the Parliament, the President of Montenegro and the Government of Montenegro, having received a positive opinion from more them 50% of the population.[40] The high percentages persisted in the later years as well, with the most recent study showing SOC still enjoying bigger trust than the aforementioned institutions, being ranked 3rd in the country, after the educational system and the police.[41]

However, while Montenegro's stance towards religious communities was, much like in Serbia, at the time of drafting the Constitution an "empty placeholder"; unlike Serbia, the subsequent legislation and political life unveiled that political elites pushed for a specific understanding of secularism, which, as it turned out, was not aligned with the affiliations of the people of Montenegro. First insight into the Montenegrin understanding of secularism can be gained from the General Law on Education, which banned religious activities in public schools, unless they were licensed as religious high schools (Article 5, par. 2).[42] This in practice meant there would be no religious instruction in Montenegrin public schools. Moreover, the lack of legislation such as laws on restitution of religious communities also proved that the state wasn't sufficiently interested into developing a cooperative relation with the religious communities, especially the largest religious denomination in the country, the SOC. The falling out had been deepened by the fact that the state concluded "fundamental agreements" with all the major denominations in Montenegro (RCC, Islamic community and the Jewish Community), excluding from the process only the SOC. However, the culmination of the negative state-church relation came with the adoption of the Law on Freedom of Religion or Belief and Legal Status of Religious Communities in December of 2019.[43] Although this law contained generic provisions introducing freedom of belief it contained quite unusual Articles in its provisory and final provisions. One of them, Article 62 prescribed in its first paragraph that: "religious buildings and land used by the religious communities in the territory of Montenegro which were built or obtained from public revenues of the state or were owned by the state until 1 December 1918, and for which there is no evidence of ownership by the religious communities, as cultural heritage of Montenegro,

[38] According to the 2003 official data, 63.49% of population of Montenegro spoke Serbian, while 21.96% identified as speaking Montenegrin. *See:* Zavod za statistiku Republike Crne Gore – MONSTAT, Saopštenje br. 60 - Stanovništvo prema vjeroispovjesti, maternjem jeziku i nacionalna ili etnička pripadnost prema starosti i polu, 2004, Internet, available at: https://www.monstat.org/userfiles/file/popis03/saopstenje60.pdf (accessed on 8th of December 2024).

[39] MINA, "Mandić: Sprovešćemo volju naroda, srpski će biti službeni jezik", *Vijesti,* 2024. Internet: https://www.vijesti.me/vijesti/politika/731080/mandic-sprovescemo-volju-naroda-srpski-ce-biti-sluzbeni-jezik (accessed on 9th of December 2024).

[40] CEDEM, *Political Public Opinion in Montenegro – September 2012*, 2012, Internet, available at: https://www.cedem.me/wp-content/uploads/2022/03/september_2012.ppt (accessed 9th of December 2024)

[41] CEDEM, *Političko javno mnjenje Crne Gore – Mart 2024*, Internet: available at: https://www.cedem.me/wp-content/uploads/2024/03/Prezentacija-MART-2024.-.pdf (accessed 9th of December 2024).

[42] Opšti zakon o obrazovanju i vaspitanju ("Službeni list Republike Crne Gore", br. 064/02 – "Službeni list Crne Gore", br. 04/08 … 84/24)

[43] Zakon o slobodi vjeroispovijesti ili uvjerenja i pravnom položaju vjerskih zajednica ("Službeni list Crne Gore", br. 074/19) The English translation of the Law's Draft is available at: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2019)014-e (accessed 9th of December 2024).

shall constitute state property."[44] The second paragraph further prescribed that: "Religious buildings constructed in the territory of Montenegro based on joint investment of the citizens by 1 December 1918, for which there is no evidence of ownership rights, as cultural heritage of Montenegro, shall constitute state property".[45] Therefore, Article 62 proclaimed that all religious property constructed prior to 1918 on the territory of Montenegro will become state property, and that the respective religious communities will have to prove their ownership in an administrative procedure, shifting the burden of proving ownership to the religious communities. [46]

While being, at the first glance, natural – this provision was directed foremost towards SOC, which was the only religious community in Montenegro which, at that time, didn't conclude a "fundamental agreement" with the state of Montenegro. The adoption of this law, politically, was motivated with the wish to nationalize Orthodox temples in Montenegro belonging to SOC in order for them to be put at the disposal at the uncanonical Montenegrin Orthodox Church, which the ruling party was promoting.[47] This move turned out to be deeply unpopular, generating dissatisfaction with both the SOC and the citizens of Montenegro. This dissatisfaction generated a protest movement headed by the popular Metropolitan of Montenegro and Littoral of the SOC, Amfilohije. These protests were being conducted in the form of religious litanies, based on which they gained their name – *litije*. With the 2020 parliamentary elections on sight, litanies generated their political articulation, which eventually brought with it first change of government in Montenegro since the fall of communism. The new post-2020 parliamentary majority soon removed the disputed provisions from the Law on Religious Communities.[48] After some time, a "fundamental agreement" was reached between Montenegro and the SOC, which, among other things, acknowledged the integrity, subjectivity as well as historic role of the Metropolitanate of Montenegro and the Littoral of SOC in shaping Montenegro's statehood, as well as the contribution of the SOC the social, cultural and educational development of Montenegro.[49] This agreement was subjected to disputes before the Constitutional Court of Montenegro. It was claimed that it brings SOC to a favored position in the legal order of Montenegro, thus hurting the principle of secularity and equality of denominations. In 2022 the Constitutional Court of Montenegro, however, ruled that: "The religious rights and freedoms from the Fundamental Agreement, (...) are substantially contained in an almost identical or similar form in the aforementioned contracts concluded with other religious communities. The above shows that the state continuously and consistently realizes the respect for the autonomy of religious communities and religious rights in general, which is committed to by the Constitution of Montenegro, the Law on Freedom of Religion or Belief and the Legal Status of Religious Communities, as well as confirmed and published international treaties".[50]

It can be, therefore, ascertained that the fall of the 30 year long rule of the Democratic Party of Socialists (DPS) which was warranted foremost due to unpopular identitarian policies, brought with it a gradual change of paradigm in the self-understanding of Montenegrin constitutional identity. This change was foremost expressed through rethinking the relationship between the constitutional identity and the religious, extra-constitutional identities of the state. The prior direction towards the concept of strict separation of state and church, which turned out to be unaligned with the extra-constitutional and pre-constitutional identities of the majority of citizens, was left behind in favor of a model of cooperative separation, which was more in line with the historical and religious identity of majority of citizens of Montenegro .[51] By resolving the so-called "church question," Montenegro demonstrated a degree of flexibility by aligning its constitutional identity with the country's prevailing pre-constitutional and extra-constitutional identities, forsaking an unpopular and, ultimately undemocratic activist approach which had resulted in decrease of legitimacy and social cohesion in the state. Such a movement can be

[44] *Ibid.*
[45] *Ibid.*
[46] For a criticla overview of this law; see: Đurić, Vladimir B;. Marković, Vasilije V. "Predsekularni karakter crnogorskog Zakona o slobodi veroispovesti u kontekstu Fulerovih zahteva za unutrašnjom moralnošću prava." *Strani pravni život*, no. 4 (2020): 7-26
[47] The speech of the then-president of Montenegro, Milo Đukanović, at the 8th Congress of DPS from November 2019, available at: https://dps.me/govor-predsjednika-dps-a-mila-dukanovica-na-viii-kongresu-partije/ (accessed on 9th of December 2024)
[48] Zakon o izmjenama i dopunama Zakona o slobodi vjeroispovijesti ili uvjerenja i pravnom položaju vjerskih zajednica ("Službeni list Crne Gore", br. 08/21)
[49] Temeljni ugovor između Crne Gore i Srpske Pravoslavne Crkve („Službeni list Crne Gore, 96/22)
[50] Odluka Ustavnog suda Crne Gore U-II br. 30/22, 37/22 i 9/23 ("Službeni list Crne Gore", br. 079/24)
[51] *See:* Marković, Vasilije. „Temeljni ugovor između Crne Go Srpske pravoslavne crkve - izazov i/ili preobražaj shvatanja nač sekularnosti u Crnoj Gori?", *Arhiv za pravne i društv nauke* 118, no. 1 (2023), 29-59

ascertained as prudent and even necessary in order to establish a viable and sustainable constitutional identity in Montenegro. It remains to be seen whether such approach will be followed in solving other issues which divide the citizens of Montenegro, further reinforcing the establishment of „constitutional we" and civic identity of Montenegro.

Conclusion

Returning to our starting point, we can conclude that all of the three countries examined, when leaving the communist era manifested a common tendency towards establishing discontinuity with their communist past through an introduction of liberal democracy and its values in their constitutional systems, thereby establishing a liberal constitutional identity. However, the countries differed in their subsequent approach to the further development of their constitutional identity, specifically in regards to the degree to which they chose to introduce their pre-constitutional and extra-constitutional identities in their novel constitutional identities. Looking back to our starting thesis that the constitutional identity of a country must be constructed with respect to a certain minimal level of alignment with the basic pre-constitutional and extra-constitutional identity of the society, it seems that Hungary and Serbia, despite noticeable differences in the intensity of utilizing the historical identities of their societies, both constructed their constitutional identity in a manner which did not collide with the pre-constitutional and extra-constitutional identities of these countries. Because of this, both these countries are in a position to utilize their cultural and historical identities in a manner which would generate legitimization of their legal order as well as cohesion within these societies. Montenegro, on the other hand, provides us with an example of the contrary, or rather – of what happens when a constitutional identity is projected in a manner which is incompatible with the basic pre-constitutional and extra-constitutional identities of a state. Having shaped the constitutional *Sollen* in a manner which drove the majority of citizens of Montenegro to the point where they felt that their adherence to their religious identity is not compatible with adherence to the policies of their state, the then-government of Montenegro brought upon itself loss of political legitimacy and ultimately, a loss of power. The new parliamentary majorities and the governments they formed, however, managed to remove the irritation between the projected constitutional identity of Montenegro and the religious identity of the society, reclaiming the legitimization and social cohesion in the country. This ultimately supports our thesis that a minimum compliance between the constitutional project and societal identities must exist in order for the constitutional identity of a country to be viable and sustainable.

COMPETING INTERESTS

The author has no competing interests to declare.

REFERENCES

Alkotmánybíróság (Constitutional Court of Hungary). 22/2016. (XII. 5.) AB határozat, para. 67. December 5, 2016. Accessed July 9, 2025. https://net.jogtar.hu/jogszabaly?docid=A16H0022.AB.

Avramović, Sima. "Poimanje sekularnosti u Srbiji – refleksije sa javne rasprave u Ustavnom sudu", *Anali Pravnog fakulteta u Beogradu* vol. 60, no.2, 2011, 280.

Bard, Petra; Chronowski, Nora; Fleck, Zoltán. "Inventing Constitutional Identity in Hungary", *MTA Law Working Papers 2022/6*, DOI: https://dx.doi.org/10.2139/ssrn.4100075

Bešić, Miloš. *Gdje je crnogorsko društvo 16 godina od obnove državne nezavisnosti? Analiza trendova političkog javnog mnjenja Crne Gore*, Centar za demokratiju i ljudska prava – CEDEM, 2022.

CEDEM, *Political Public Opinion in Montenegro* – September 2012, 2012, Internet, available at: https://www.cedem.me/wp-content/uploads/2022/03/september_2012.ppt (accessed 9th of December 2024)

CEDEM, *Političko javno mnjenje Crne Gore – Mart 2024*, Internet: available at: https://www.cedem.me/wp-content/uploads/2024/03/Prezentacija-MART-2024.-.pdf (accessed 9th of December 2024).

Constitute Project*, Constitution of Montenegro 2006 (rev. 2013)*, Internet, available at: https://www.constituteproject.org/constitution/Montenegro_2013 (accessed on 8th of December 2024).

Declaration on the protection of national and political rights and the common future of the Serb people, 2024, Internet, available at: https://www.predsednik.rs/pres-centar/saopstenja/deklaracija-o-zastiti-nacionalnih-i-politickih-prava-i-zajednickoj-buducnosti-srpskog-naroda (Accessed 9th of

December 2024).

Đukić, Dalibor. "The Legal Regulation of Religious Symbols in the Public Sphere in Serbia" , *Religious Symbols in the Public Sphere Analysis on Certain Central European Countries* (*ed*. Paweł Sobczyk), Ferenc Mádl institute of comparative law – Central European Academic Publishing, Budapest – Miskolc, 2021, pp. 141-170.

Đurić, Vladimir, "Religija i ustavni identitet", *Zbornik radova sa međunarodne konferencije posvećene desetogodišnjici izdavanja časopisa Politikologija religije*. Centar za proučavanje religije i versku toleranciju – Fakultet političkih nauka u Beogradu, Beograd, pp. 229-248

Đurić, Vladimir. "Religija i ustavni identitet", *Zbornik radova sa međunarodne konferencije posvećene desetogodišnjici izdavanja časopisa Politikologija religije*. Centar za proučavanje religije i versku toleranciju – Fakultet političkih nauka u Beogradu, Beograd, pp. 229-248.

English translation of the Constitutuon of the Republic of Serbia from 1990, Internet, available at: available at: https://www.worldstatesmen.org/Serbia_const_1990.htm (accessed on 8th December 2024)

Hörcher, Ferenc. "7 Is the Historical Constitution of Hungary Still a Living Tradition? A Proposal for Reinterpretation" *The Concept of Constitution in the History of Political Thought* (*ed.* A. Górnisiewicz and B. Szlachta), De Gruyter Open Poland, Warsaw, 2022, pp. 89-112. DOI: https://doi.org/10.1515/9783110581928-008

Hörcher, Ferenc. "The National Avowal." *Politeja*, no. 17, 2011, pp. 19-38, http://www.jstor.org/stable/24919548.

Hungary Fundamental Law (prior to the Ninth Amendment, adopted on 15 December 2020) – translation provided by Authorities , Venice Commission, 2021, Internet, available at: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2021)046-e (accessed 8th of November 2024).

Key data on settlements, Census 2022, Internet, available at: https://nepszamlalas201622.ksh.hu/eredmenyek/vizualizaciok/a-telepulesek-legfontosabb-adatai/index_en (accessed on 8th of December 2024)

LiCoDU, *Law On Churches And Religious Communities Of The Republic Of Serbia,* Internet, available att: https://licodu.cois.it/?p=1448&lang=en (accessed 8th of December 2024).

Marinković, Tanasije. "Prilog za javnu raspravu o ustavnosti Zakona o crkvama i verskim zajednicama," *Anali Pravnog fakulteta u Beogradu*, vol. 59, 2011, no. 1, pp. 367-385

Marković V. Vasilije; Romić Lj. Marko. "O ustavnosti registrovanja crkava i verskih zajednica - prilog proučavanju državno-crkvenog prava." *Strani pravni život*, no. 1 (2020): pp. 45-61.

Marković, Vasilije. "Temeljni ugovor između Crne Gore i Srpske pravoslavne crkve - izazov i/ili preobražaj shvatanja načela sekularnosti u Crnoj Gori?", *Arhiv za pravne i društvene nauke* 118, no. 1 (2023), 29-59.

MINA, "Mandić: Sprovešćemo volju naroda, srpski će biti službeni jezik", *Vijesti,* 2024. Internet: https://www.vijesti.me/vijesti/politika/731080/mandic-sprovescemo-volju-naroda-srpski-ce-biti-sluzbeni-jezik (accessed on 9th of December 2024).

Montenegrin office for statistics – MONSTAT, *Release 135/2023 - The 2023 Census of Population, Households, and Dwellings Population of Montenegro by National, i.e. Ethnical Affiliation, Religion, Mother Tongue, and Language a Person Usually Speaks*, 2024. Internet: available at: https://www.monstat.org/uploads/files/popis%202021/saopstenja/SAOPSTENJE_Popis%20stanovnistva%202023%20II_ENG.pdf (accessed on 8th of December 2024).

Novi Standard, *Zašto "Stefan Nemanja" drži mač a ne krst?,* Internet, available at: https://standard.rs/2021/01/26/zasto-stefan-nemanja-drzi-mac-a-ne-krst/ (accessed 9th of December 2024).

Odluka Ustavnog suda Crne Gore U-II br. 30/22, 37/22 i 9/23 ("Službeni list Crne Gore", br. 079/24)

Odluka Ustavnog suda Republike Srbije br. IUz-455/2011 ("Službeni glasnik Republike Srbije"" br. 23/2013).

Opšti zakon o obrazovanju i vaspitanju ("Službeni list Republike Crne Gore", br. 064/02 – "Službeni list Crne Gore", br. 04/08 … 84/24)

Parliament of the Republic of Serbia, *Constitution of the Republic of Serbia*, Internet, available at: http://www.parlament.gov.rs/upload/docume

nts/Constitution_%20of_Serbia_pdf.pdf (Accessed 9th of December 2024)

Rosenfeld Michel, *The Identity of the Constitutional Subject: Selfhood, Citizenship, Culture, and Community,* Routledge, New York, 2010.

Stopić, Zvonimir. "Bosnia-Herzegovina political briefing: The Day of Serbian Unity, Freedom and the National Flag", Weekly Briefeing, China-CEE Institute, Vol. 44, No. 1 (BH), 2021, available at: https://china-cee.eu/wp-content/uploads/2022/08/2021p10_BosniaHerzegovina.pdf (Accessed 9th of December 2024).

Šuković, Mijat, Ustavno pravo, CID, Podgorica, 2009.

Szente, Zoltán. "Constitutional identity as a normative constitutional concept", *Hungarian Journal of Legal Studies* 63, 1 (2022): 3-20, doi: https://doi.org/10.1556/2052.2022.00390

Szente, Zoltán. "Constitutional identity as a normative constitutional concept", *Hungarian Journal of Legal Studies* 63, 1 (2022): 3-20, DOI: https://doi.org/10.1556/2052.2022.00390

Temeljni ugovor između Crne Gore i Srpske Pravoslavne Crkve ("Službeni list Crne Gore, 96/22)

The speech of the then-president of Montenegro, Milo Đukanović, at the 8th Congress of DPS from November 2019, Internet, available at: https://dps.me/govor-predsjednika-dps-a-mila-dukanovica-na-viii-kongresu-partije/ (accessed on 9th of December 2024)

Ustav Crne Gore ("Službeni list Crne Gore", br. 1/2007 i 38/2013)

Ustav Republike Crne Gore ("Službeni glasnik Republike Crne Gore", br. 48/92)

Ustav Republike Srbije ("Službeni glasnik Republike Srbije", broj 1/1990),

Ustav Republike Srbije, ("Službeni glasnik Republike Srbije", br. 98/2006 and 115/2021)

Venice Comission, *Constitution of the Republic of Montenegro (12 October 1992),* 2005, Internet, available at: https://www.venice.coe.int/webforms/documents/?pdf=CDL(2005)096-e (acccessed 8th of December 2024).

Venice Comission, *Montenegro – Draft Law On Freedom Of Religion Or Beliefs And Legal Status Of Religious Communities,* 2019, Internet, available at: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2019)014-e (accessed 9th of December 2024)

Vladimir B;. Marković, Vasilije V. "Predsekularni karakter crnogorskog Zakona o slobodi veroispovesti u kontekstu Fulerovih zahteva za unutrašnjom moralnošću prava." *Strani pravni život*, no. 4 (2020): 7-26

Zakon o crkvama i verskim zajednicama ("Službeni glasnik Republike Srbije", ", br. 36/2006)

Zakon o državljanstvu Republike Srbije ("Službeni glasnik Republike Srbije", br. 35/2004 - 24/2018)

Zakon o izmjenama i dopunama Zakona o slobodi vjeroispovijesti ili uvjerenja i pravnom položaju vjerskih zajednica ("Službeni list Crne Gore", br. 08/21)

Zakon o slobodi vjeroispovijesti ili uvjerenja i pravnom položaju vjerskih zajednica ("Službeni list Crne Gore", br. 074/19)

Zavod za statistiku Republike Crne Gore – MONSTAT, *Saopštenje br. 60 - Stanovništvo prema vjeroispovjesti, maternjem jeziku i nacionalna ili etnička pripadnost prema starosti i polu*, 2004, Internet, available at: https://www.monstat.org/userfiles/file/popis03/saopstenje60.pdf (accessed on 8th of December 2024).

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Hungarian Associations along the Tisa River from the Perspective of the Yugoslav Authorities (1929–1935)

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ABSTRACT

The study will exemine the Yugoslav authorities' attitude towards ethnic Hungarian assiciation life in the Vojvodina through three local case studies (Stara Kanjiža, Senta, Stari Bečej) in the period 1929–1935. It will be also discussed how the authorities judged the behaviour and political loyalty of the leaders of these associations. In addition, the activities of civil societies in the three territorial units will also be touched upon. Conclusions are based on an analysis of the above aspects and on a comparison of the local levels according to these aspects.

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Association, culture, ethnic Hungarian association, ethnopolitics, Yugoslav authorities

Introduction

The study will exemine the Yugoslav authorities' attitude towards ethnic Hungarian association life in Vojvodina in the period 1929–1935 through three local case studies. The regional characteristics and similarities in the three municipalities/districts of the Tisa river basin, which formed a predominantly ethnically homogeneous unit, namely Stara Kanjiža, Senta and Stari Bečej will be pointed out. Finally, the activities of the associations will be evaluated. The first half of the twentieth century is one of the most vivid and varied periods in the history of civil society.[1] Davies highlights that this area requires much more attention than hitherto, especially in relation to the relationship between civil society and power. (Davies, 2010, p. 365.)

For the analysis, Egry's concept of the irredenta is an useful theoretical scheme. Egry likens the concept to flowers of speech (szóvirág), which contains ethnic charge and social actions. The fact that the concept and its associated terms are not homogeneous and fixed makes research in this direction difficult. (Egry, 2015, p. 298., 300., 327.) Egry argues that the Romanian authorities' use of terms to assess the life of the Hungarian minority there was not uniform, and it depended to a large extent on the administrative organisations. (Egry, 2015, p. 301.) This also applies to the terminology used by the authorities under the Yugoslav royal dictatorship. Egry defines the concept of irredenta as a social category used by the authorities to designate individuals who they consider to be a threat to the state. He distinguishes two sub-cathegories, namely ’soft’ and ’hard’ irredenta. ’Soft’ irredenta refers to those people for whom the authorities have defined irredenta or revisionist category, which are synonymous concepts. (Ergy, 2015, p. 313.) When examining the latter, it is useful to consider chauvinistic, anti-state or anti-national behaviour as belonging to the 'hard' category. (Egry, 2015, 301.) In addition to discussing the specific aspects of the relationship between the leaders of the ethnic Hungarian associations and the Yugoslav authorities, it will also be examined in which category the ethnic Hungarian association leaders along the Tisa river were categorized by the regional authorities.

The introduction of the royal dictatorship on 6th January 1929 created a caesura in the history of Hungarian minority and defined the framework and scope of future ethnic Hungarian association life. The appointment of Milan Stojadinović as prime minister in 1935 meant a marked improvement in the functioning of Hungarian minority associations. The period between the two dates, which provides the chronological framework for the writing of this paper, can be considered the most restrictive period of the Yugoslav royal dictatorship.

The successor states all faced serious ethnopolitical challenges, especially in the border areas. The minority Hungarian communities, which saw themselves as a separate society that rejected assimilation and broke away from Hungarian nation-building with a developed Hungarian consciousness, posed a security risk in the eyes of the authorities.[2] In Yugoslavia, the hegemonic strategy of managing ethnic conflicts under the royal dictatorship was used. (Salat, 2001, p. 72.) Under this strategy, the leading positions were held by members of the South Slavic nations, in this case the Serbs, and they relied on the organisations of violence. (Dévavári, 2022, p. 187–188.) Although the imposed constitution (1931) eased the extreme mistrust of the state security organs towards minorities, there was still a climate of mistrust between the minorities and the ethnopolitical regime. These have been in opposition throughout the period under study. The roots of this go back to the period of the Austro-Hungarian Empire, when the authorities considered the aspirations of nationalities as a threat to the integrity of the state. (Egry, 2015, p. 298.) The fact that the banovina offices were in reality executive bodies also had an inhibiting effect,[3] (Dévavári, 2022, p. 189.) and the desire to meet central expectations played a significant role in this. The harsh measures taken by the authorities to restrict the scope for manoeuvre of the ethnic Hungarian civil sphere remained in place in the first half of the 1930s. The paper will, however, nuance the claim that the state security organisations had discovered irredentist movements in all manifestations of ethnic Hungarian association cultural life. (Janjetović, 2005, p. 294.)

The earliest civil associations in the territory of present-day Vojvodina date back to the 19th century. A strong peasant middle-class and rural industry made it possible to several thousand people join the associations in "large villages".

[1] One possible definition of civil society is a network of institutions and associations (Fox Gotham, 2005, p. 98–102.) The research is therefore inextricably linked to the subject of civil society. The main key concept of the work is the association, by which is meant an organisation with a legal personality, registered by the authorities, with a self-governing body, with a registered membership and a specific purpose laid down in its statutes.

[2] Cf.: Bárdi, 2013, p. 208–223.

[3] For more on the Yugoslav state and institutional cultural policy in general, see: Димић, 2020, p. 115–127.

(Bethke, 2009, p. 307.) Their content, political and social profile was varied, and only after the break-up of the Austro-Hungarian Empire did they take on an ethnic 'counter-public' character in some places. (Bethke, 2009, p. 307.) This was particularly true in the case of the ethnic Hungarians in Vojvodina. In the 1920s, the number of associations in this community is likely to be between 170 and 190, but the exact number is impossible to state due to the discrepancies in the data.[4] This community had a richly structured social life. (Csurka, 2009, p. 6.) A South Slavic statistic from 1929 lists 189 ethnic Hungarian associations with a total of 23 424 members (**illustration 1**).[5]

Illustration 1

Hungarian associations along the Tisa in the South Slavic state (April 1929)			
Name of the settlement or district	Population according to the 1921 census	Number of associations listed as Hungarian cultural associations	Number of members
Senta district[6]	The population of the district was 40468 people, including the population of the city of Senta (26626).	14 associations	minimum 1650 members
Stari Bečej district[7]	27801 persons	23 associations	3208 members in total
Stara Kanjiža city	17123 persons	15 associations	minimum 1421 members

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The aggregated data show that a significant proportion of the association's members, more than a quarter of them, were active along the river Tisa. The 1929 census listed all ethnic Hungarian associations as cultural in nature, including firemen's associations, women's associations, farmers' clubs, craftsmen's and trade associations, song societies (dalárda), reading clubs, sports clubs, casinos and hunting clubs. In this respect, the adjective 'cultural' is relevant for us because the cultivation of culture by minorities was an inherently irredentist activity, as in neighbouring Romania. (Egry, 2015, p. 325.) Furthermore the religious character of the association life of certain villages was characteristic.[8]

The Hungarian community in Vojvodina, and especially the middle-class were over-represented in the association life. Individuals belonging to this stratum were considered unreliable by state security. Among the ranks of irredentists considered by the authorities to be the most dangerous to the integrity of the state, middle-class people were clearly the most represented in the documents reviewed.[9] Associations that cultivated Hungarian culture and language played a central role in minority institutionalisation and parallel nation-building. Therefore, state security organizations paid special attention to their activities, as the categorisations in the statistics also show (**illustration 2**).

[4] Cf.: Janjetović, 2005, p. 288.; Bethke, 2009, p. 307.; Arhiv Jugoslavije (AJ) F. 398., 1. d.; For more on the different statistics, see: Janjetović, 2005, p. 288.

[5] AJ F. 398., 1. d.

[6] It covered the following settlements in the relevant statistics: Ada, Mol, Martonoš, Horgoš. Senta city is listed separately.

[7] It included the following settlements in the relevant statistics: Stari Bečej, Srbobran, Bačko Gradište, Bačko Petrovo Selo.

[8] Cf.: AJ F. 398., 1. d.

[9] Cf.: AJ F. 38., 71/195. National, social, minority and other associations in the districts of the Danube Banovina; AJ F. 14, 251/871. List of minority associations in the districts of the Danube Banovina.

Illustration 2

Hungarian associations along the Tisa in the South Slavic state (January 1935)				
Name of the settlement or district	Population according to the 1931 census	Number of associations	Number of associations listed as minority associations	Political reliability of minority associations
Senta district[10]	The population of the district (without the city of Senta) was 31315, of which 22223 were native Hungarians; the population of the city of Senta was 31969, of which 26461 were native Hungarians.	66 (of which 36 in the district centre)	18 (of which 14 in the district centre)	Mostly unreliable
Stari Bečej district[11]	57974 persons, of which 28629 were native Hungarian	83	24	Mostly reliable
Stara Kanjiža city	19108 persons, of which 16772 were native Hungarian	18	7	Mostly under state control

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The statistics, which were centrally compiled in 1935 and also show the minority associations of the Danube Banovina by district, already contain the authorities' assessment of political reliability, which was marked with various categories.[12] From this document, conclusions can be drawn about the attitude of the authorities towards minority association life in the region, the Tisa river basin. At this point, it is worth drawing attention to the importance of the territorial dimension and local conditions, namely "a certain, more significant number of ethnic Hungarians were needed to keep a relatively large number of dangerous irredentists", (Egry, 2015, p. 303.) as exemplified by the region under study.

It is also important to note that, in addition to the associations registered as ethnic Hungarian, there were also a number of associations with a predominantly ethnic Hungarian membership, which appear in the lists of "humanitarian, national, cultural, patriotic, etc. associations". In the following, the associations officially defined as minorities or ethnic Hungarians will be used as a basis for the analysis.

In particular, I will analyse the perceptions of political loyalty of the authorities. Furthermore, the situation and behaviour of the ethnic Hungarian middle-class population and the activity of association work in the three municipalities/districts will be discussed.

[10] It included the following settlements in the relevant statistics: Ada, Mol. In addition, Senta city and Martonoš and Horgoš are listed separately.

[11] In the relevant statistics it included the following settlements: Stari Bečej, Srbobran, Bačko Gradište, Bačko Petrovo Selo. (Cf.: AJ F. 38, 71/195. List of minority cultural and sports associations in the district of Stari Bečej.)

[12] Cf.: AJ F. 38, 71/195. List of minority cultural and sports associations in the territory of the district of Stari Bečej.; AJ F. 38, 71/195. List of minority associations in the territory of the city of Senta; AJ F. 14, 251/271. List of associations and societies in the territory of the city of Stara Kanjiža. Report of the police magistrate of the city.

Results

Municipality of Stara Kanjiža

Belgrade considered the majority of the minority association leaders in Stara Kanjiža to be politically unreliable in the mid-1930s. There was a strong ethnic factor in the leadership of minority assiciations and the authorities considered most of these people as 'soft' irredentists.

In 1935, to justify inappropriate political behaviour, the Yugoslav authorities used arguments such as the ethnic Hungarian character of the leadership, the perceived 'Hungarian-chauvinist' nature of the society, the role they played in the community, and the indifference to Yugoslav identity. He categorised the local ethnic Hungarian association leaders as 'politically disloyal' and the ethnic factor was emphasised: 'the management is Hungarian', 'the whole association is Hungarian-Chauvinist, pays no attention to our national issues', 'the persons listed are reliable, except for Péter Batta, who is on the suspect list', 'reliable, state control plays a role in this', 'inappropriate from a national point of view'. Consequently, the authorities saw most of these people as 'soft' irredentists. Two of the seven Hungarian cultural, social or humanitarian associations were considered unreliable (the Catholic Circle [Katolikus Kör] and the Scout Association [Felderítők és Hegymászók Egyesülete]) and another four associations were represented at their meetings by political commissioners from the state and were therefore kept under close supervision. Nevertheless, they were assessed as politically loyal in the census.[13]

It can be observed throughout Vojvodina that some of the former members of the Hungarian Party (Magyar Párt)[14] were actively involved in the organisation of the association life.[15] Of particular note is the work of Péter Batta, a lawyer, himself a former member of the Hungarian Party, who was closely monitored by the internal security services. He was a member of the board of several associations, such as the Casino, Farmers' Association [Gazdakör] and Scout Association. He was rated in the reports as a 'big Hungarian' [’magyarón’][16] and it was also noted that he was on the suspect list.[17] In the light of this, it is likely that he was mainly targeted by the authorities because of his consistent behaviour, general attitude and prominent role in the community.

The official assessment of loyalty was basically made in the light of the political and cultural involvement during the previous system or after 1918. Even good connections with Hungarian Party politicians were enough to be labelled 'politically unreliable'.[18] The authorities were suspicious of minority associations that showed no interest or attention to Yugoslav national events, and the Catholic Circle was considered to be one of them. The Scout Association was considered unreliable because its members had badges bearing the Hungarian crown, and a criminal investigation was being carried out in this case.[19] However, it is important to take into account that parties and associations representing Hungarian interests can be considered as significant actors in the institutionalisation of minorities.

The October 1929 report of the captain of the local police force contains useful information for the paper’s topic. This document reveals the security services' view of the life of minority civil society. The local police command examined whether there were any anti-state organisations or indexed books in the town, analysed the nature of the press and publishing activities, the presence of foreigners in the town, and the border traffic. They also checked whether there was any civic mobilisation around the Rothermere agitation,[20] whether there was any inflammatory fake news and monitored radio propaganda from Hungary.[21] In my opinion, the authorities considered it important to examine all this in large part because it could be assumed, as the Romanian example shows, (Egry, 2015, p. 314.) that expressing dissatisfaction, criticism or

[13] Cf.: AJ F. 14, 251/271. List of associations and societies in the town of Stara Kanjiža. Report of the police magistrate of the town.

[14] The Hungarian Party (Magyar Párt) was founded on 17th September 1922 in Senta, aiming at the institutional political representation of the Hungarian minority in Yugoslavia. (Dévavári, 2014, p. 136–137.)

[15] Among the best known I would highlight Imre Várady, Leó Deák, Dénes Streliczky and Péter Batta, former leaders of the Hungarian Party.

[16] This is the category used to designate persons considered to be Hungarian friends.

[17] Cf.: AJ F. 14, 251/271. List of associations and societies in the town of Stara Kanjiža. Report of the police magistrate of the town.

[18] For more on this, see the case of one of the members, István Bodor: Arhiv Vojvodine (AV) F. 126. II. odeljenje. K. Pov. Broj 236/1934. Confidential Report of the Senta City Police Magistrate to the Internal Security Department of the Danube Banovina Directorate.

[19] Cf.: AJ F. 14, 251/271. List of associations and societies in the town of Stara Kanjiža. Report of the police magistrate of the town.

[20] On June 21st 1927, Harold Sidney Harmsworth, Viscount Rothermere, concluded in his article titled '*Hungary's Place in the Sun*' that the border regions of the successor states, which were predominantly inhabited by Hungarians, should be reattached to Hungary. (Zeidler, 2001, p. 97.)

[21] AV F. 126. II. odeljenje. Pov. Број:410/929. Report of the captain of the Stara Kanjiža police force (October 1929.).

grumbling was sufficient to qualify somebody as 'irredenta/revisionist'.

In any case, the administration, which described the mood of the people as 'good' and 'satisfactory', also noted that "the non-national ['anacionalni'] (meaning non-Yugoslav, ethnic Hungarian) population was reticent and refrained from expressing its own mood, which applied especially to intellectuals. The rural population and the industrialists were completely satisfied, because on their account the authorities were carrying out their activities in a rapid and unbiased manner."[22] This attitude was the result of the erosion of the economic, intellectual and cultural life of the ethnic Hungarian middle-class in the period 1918–1927. (Dévavári, 2022, p. 194–195.)

In the sources, the term 'anacionalni' did not only refer to the foreignness of the South Slavic community. The Hungarians were not considered as part of the Sout Slavic nation. Furthermore, the ethnic Hungarian middle-class, the remaining intelligentsia, as having a developed Hungarian consciousness, rejected assimilation and were interested in restoring ethnic recruitment. Accordingly, they acted as the main promoters of culture.

In the first half of the 1930s, which continued to be marked by many tensions, the impact of the economic crisis on the operation of cultural associations should be highlighted, as the Education Department of the Danube Banovina noted in its summary report of 3rd March 1931, explaining the low activity of the associations in many cases.[23] It was in this context that official reports on the general situation at local level in the early 1930s generally revealed a relative decline in association life, with the exception of the cultural activities of associations considered to be South Slavic nationalist or certain humanitarian associations.[24]

In mid-1931, the authorities considered that Stara Kanjiža had a "very low level" of public cultural work, one of the reasons being that the minority associations "do not work at all, because their intellectuals have withdrawn from public life, and our [meaning Serbian – Á. D.] associations are still weak because of the settled population [meaning Serbian colonists from Lika and Herzegovina settled by the government in municipality of Stara Kanjiža – Á. D.], so there are no cultural events."[25] From 1932 onwards, however, there was a brief wave of cultural expansion. An example of this was the establishment of the Industrial Home, which provided a place for the Industrial Reading Club and the Industrial Singing Society, which performed cultural functions.[26] There is also evidence of the emergence of a grouping of ethnic Hungarian intellectual forces.[27]

The official crackdown reached its peak in 1935. The head of the Stara Kanjiža police force informed the internal affairs department of the banovina's office that he had banned *csárdás* at the Farmer's Association. The background to this was that the local Hungarians had begun to group their intellectual forces in order to avoid assimilation. Within a short time, the csárdás became a favourite [dance] even among the Serbian population in some places. " (...) Today, for the local Hungarians, the csárdás is no longer just a dance. Among them, regardless of any distinction, whether educated or uneducated, worker or industrialist, it is seen as the embodiment of their national cause."[28] After the death of King Alexander, the intellectual work of the ethnic Hungarians intensified, and clashes and quarrels developed at certain Hungarian events with the Serbian population. These were cited by the police in Stara Kanjiža when it banned the csárdás in the area under its jurisdiction. The police captain called on the banovina's office to no longer allow csárdás at farmers' events in Stara Kanjiža "in the interest of our general national cause."[29]

District of Senta

In 1935, the Yugoslav authorities considered the minority

[22] AV F. 126. II. odeljenje. Pov. Број:410/929. Report of the captain of the Stara Kanjiža police force (October 1929.).

[23] AV F. 126. II. odeljenje. IV. Број: 9530. Summary report of the Education Department of the Danube Banovina (3rd March 1931.)

[24] Cf.: AV F. 126. II. odeljenje: Број: 8903/930. Bimonthly (Jan-Feb 1931.) report of the city police magistrate to the Danube Banovina Directorate (3rd March 1931.); AV F. 126. II. odeljenje. Broj: 5217. Bimonthly report of the municipal police magistrate (July–August 1931.) to the director of the Danube Banovina district (1st September 1931.); AV F. 126. II. odeljenje. The three-monthly (January–March 1932.) report of the city police magistrate to the Danube Banovina Directorate (1st April 1932.); For more information on the social life of Stara Kanjiža, see: Kávai, 2008.

[25] F. 126. IV. 30143/931. Report on cultural events in May and June 1931.

[26] For more on the self-organisation of craftsmen, see for example: *Reggeli Ujság*: Az iparosság nagy ünnepe Sztárakanizsán. 9th October 1932.

[27] F. 126. II. 56128/1935. Broj: 4394/935. Report of the City Police Chief to the Internal Affairs Department of the Danube County (7th December 1935.).

[28] Ibid.

[29] Ibid.

Hungarian association board members of the Senta district centre as rather disloyal. The main reasons mentioned were the ethnic Hungarian origin of the respective leaderships, their dissatisfaction with the existing regime and their nationalist orientation. The following categories were used to classify the disloyal: 'the members are from the Hungarian minority', 'big Hungarians [magyarón] and chauvinists and thus unreliable and suspicious in all respects', 'totally unreliable and disloyal as they are not satisfied with the system currently in place in the state', 'all of them are of Hungarian origin and clearly display their chauvinism', 'big Hungarians [magyarón] and propagators of "Magyarism"', 'totally unreliable and suspicious, highly chauvinistic and Hungarian-oriented [magyarón], politically suspect.', 'totally unreliable and disloyal, politically incorrect', 'big chauvinists, totally Hungarian-oriented', 'big Hungarians [magyarón], so their chauvinism is clear, otherwise they are outwardly loyal and politically correct', 'the bearers of Hungarian culture and propagators of Hungarianism, ostensibly displaying loyalty'.[30]

Among those who were not considered loyal, the leaders of cultural, artistic and professional associations were the most prominent, together with the leaders of humanitarian associations.[31] Mainly congruent terms of 'soft' irredentism appear (e.g. 'big Hungarian' [magyarón], 'suspicious', 'not satisfied', 'politically suspicious', 'carriers of Hungarian culture'), but there are more definitions in the 'hard' category (e.g. 'clearly displaying their chauvinism', 'big chauvinists') than in the case of Stara Kanjiža. Origin and loyalty were the main criteria for determining the political loyalty of association leaders in the case of Senta, too. However, the overall picture is that the ethnic Hungarian associations of Ada and Mol, which belonged to the district, were considered to be adequate in terms of political reliability.[32]

In many cases, however, the real ideas and intentions of the people under surveillance were hidden from the authorities. Indeed, a report written by the local magistrate at the end of 1929 shows that minorities had not shown any interest in the public until then, which is linked to the withdrawal of the middle-class from public life in the 1920s, as the case of Stara Kanjiža shows. While the village population was not considered irredentist or anti-state at all, the "direction of the emotions of the intelligentsia" were considered difficult to define. Intellectuals were wary of associating with people who were perceived by the authorities to be more seriously expressing their irredentist nature or anti-state activities, the report said.[33]

The reports of the police chiefs from the second half of 1931 illustrate that associations of a non-national (meaning minority) cultural nature were "doing nothing".[34] By this was meant that the associations did not organise cultural events at that time.

The Hungarian cultural life in Senta began to develop from 1933, but serious initial difficulties had to be overcome.[35] The reasons can be traced back to the features of the royal dictatorship, the restrictive ambitions of the ethno-political regime, the distrust of the security services, the erosion of the ethnic Hungarian middle-class, the attitudes of the local population and the effects of the global economic crisis. In these years, local police and magistrate reports, as well as local press, inform us of a resigned and stagnating minority association cultural life.[36] The low point was 1932, the year of the proliferation of complaints from Hungarian minority elites. "The entire stagnation of associations affected the work of cultural, sporting, militant and

[30] Cf.: AJ F. 38, 71/195. List of minority associations in the town of Senta.
[31] Ibid.
[32] AJ F. 38., 71/195. List of minority associations in the Senta district (Ada, Mol, Martonoš, Horgoš).
[33] AV F. 126. II. odeljenje. Broj ПОВ 530. Report of the magistrate of Stara Kanjiža.
[34] F. 126. IV. 40821/931. Broj: 12577/1930. Report of the Senta police magistrate to the Banovina's Department of Culture (5th September 1931.); F. 126. IV. 57970/931. Broj: 12577/1930. Report of the Senta police magistrate's office to the Banovina's Department of Culture (30th November 1931.).
[35] This year, there were 10 cultural associations in the city, with a total of around 2000 members. (F. 126. IV. 27439/933. Senta school inspector's report on cultural associations. [9th VIII. 1933.])
[36] Cf.: AV F. 126. II. odeljenje. Број: 6984 кап. 1929. Monthly report of the chief of police of the city of Senta (1st November 1929.); AV F. 126. II. odeljenje. БРОЈ: 11797/1930. Bimonthly report of the district magistrate of Senta (3rd September 1930.); AV F. 126II. odeljenje. IV. Број: 9530. Bimonthly report of the Education Department of the Danube Banovina (3rd March 1931.); AV F. 126. II. odeljenje. Add. Пол. 2296/930. 3.III.1931. Bimonthly report of the Senta city police headquarters (1931); AV F. 126. II. odeljenje. Broj: 2646/1932. Three-monthly report of the Senta Municipal Police Headquarters (April–June 1932.); AV F. 126. II. odeljenje. Broj: 9105/1932. Three monthly reports of the Senta Municipal Police Headquarters (July–September 1932.); *Sentai Friss Ujság*: Kulturválság. 20th October 1933.; *Sentai Friss Ujság*: A Jótékony Katholikus Nőegyesület. 6th December 1933.; *Sentai Friss Ujság*: A kultur délutánok. 8th December 1934.; *Sentai Friss Ujság*: Kitűnően sikerült a Katholikus Nőegylet teadélutánja. 22nd May 1935.; *Sentai Friss Ujság*: Fényesen sikerült a Kath. Nőegylet gyermekelőadása. 10th July 1935.

national associations. Only Sokol continued its activities, while the other associations were struggling to survive, barely even aware of their existence."[37] The main reason for this decline was what the police chief had also noted, namely that even the leaders of local community were not fully understood by society at large, and therefore outstanding people are lost.[38] The case of Horgoš, then part of the district, was similar.[39]

Furthermore, local reports sent to authorities regularly make the point that associations do not go beyond the limits of their statutes in their activities, and there is continuous improvement in this respect.[40] This is relevant because, under the 1931 Law on Associations, the authorities could ban associations that carried out activities that was considered anti-national or anti-state and/or went beyond the objectives set out in their statutes.[41]

Finally, there are important lessons to be drawn from the history of the banning of the Hungarian Cultural Association in Senta. The association that started its activities in the spring of 1933 was finally banned in August 1934, the year in which the number of banning of the associations multiplied (e.g. the People's Circle of Subotica and the Hungarian Cultural Association in Veliki Bečkerek). The security services decided not to approve their activities on the basis of three main criteria. First, they hinder the development and strengthening of Yugoslav identity and loyalty through the cultivation of Hungarian culture. On the other hand, according to the authorities, there were Hungarian persons on the board who have never shown any loyalty and were considered 'totally revisionist'.[42] Finally, the specificity of the region played a role, namely that it is already difficult to root the cultivation of national (meaning Yugoslav) culture in an area with a predominantly ethnic Hungarian population. These were the reasons considered by the authorities. In April 1934, the Directorate of Danube Banovina banned the association and all its further activities on the basis of unfounded accusations.[43] The association appealed, but was rejected by the Minister of the Interior.[44]

This case also illustrates that the Yugoslav ethnopolitical regime systematically restricted the ethnic Hungarian community's room for manoeuvre. In fact, the Yugoslav ethnopolitical regime was a discriminatory one (Mesaroš, 1981, p. 141.) and also sought to prevent the ethnic Hungarian community from minimising its losses by breaking down minority cultural positions..

District of Stari Bečej

As opposed to the above mentioned two municipalities, the Hungarian minority associations of the district of Stari Bečej (which included Srbobran, Bačko Gradište and Bačko Petrovo Selo) were mostly described by the state security services as politically loyal in the mid-1930s. Seven out of twenty-four association leaders were considered semi-, mostly or totally unreliable or suspicious. These included association leaders not only engaged in cultural activities but also in economic or social work.

Definitions that refer to political reliability include: 'appropriate', 'unreliable', 'considered politically appropriate', 'even if some Serbs members are also, unreliable', 'totally unreliable', 'suspect'.[45] Still, we can observe 'soft' variants of irredentist concepts in the context of the Stari Bečej district centre.

The Catholic associations were the most suspect in the eyes of the authorities. From this point of view, it is likely that the religious nature of the associations in Stari Bečej attracted the attention of the authorities to a considerable extent. The individual priests played a prominent role in the association life of Stari Bečej, alongside the

[37] AV F. 126. II. odeljenje. Број: 9105/1932. Three monthly reports of the Senta city police (October 1932.); For more information on social life in Senta between the two world wars, see: Tolmácsy, 1980–1981.

[38] AV F. 126. II. odeljenje. Број: 9105/1932. Three monthly reports of the Senta city police (October 1932.)

[39] AV F. 126. II. odeljenje. I. No. 640. 3-III 1931.; AV F. 126. II. odeljenje. Pov. No. 566 1. VII. 1932.; AV F. 126. II. odeljenje. Pov.Broj.896./1932.

[40] In this context, see for example: AV F. 126. II. odeljenje. No. 2212. 2/III. 1931.

[41] The essence of the paragraph was as follows: '...[According to] Article 11 of the Law on Associations, Assemblies and Meetings of 1931 (Zakon o udruženjima, zborovima i dogovorima) [...] a ban shall follow, if an association exceeds its powers or commits an act against the state or society." (Németh – Várady, 2022, p. 96.)

[42] The whole initiating society was considered revisionist in a March 1934 trust report (AV F. 126. II. odeljenje. K. Pov. Broj 236/1934. Confidential report of the City Police Headquarters to the Internal Security Department of the Danube Banovina Directorate.)

[43] AV F. 126. II. odeljenje. II/2 Број: 23030. Notification from the Directorate of the Danube Banovina to the Senta municipal police.

[44] AV F. 126. II. odeljenje. III. бр. 25349. Order of the Directorate of the Ministry of the Interior to the Directorate of the Danube Banovina.

[45] Cf.: AJ F. 38, 71/195. List of cultural and sports associations of minorities in the district of Stari Bečej.

intellectuals.[46] A report on internal security along the Tisa river indicates that 'as far as Catholic priests in particular are concerned, this is a difficult and complex issue, because the Catholic Church is a colossal organisation and those in power are the most invincible in this area. Wherever the priests are Hungarian, no speech will drive the people to love or otherwise take an active part in our national cause."[47] It was highlighted that a large number of them do not speak the official language and that the state should endeavour to appoint only priests who have completed their studies in Yugoslavia.[48]

The October 1929 report of the district administration of Stari Bečej reported that since the ethnic Hungarian institutions' cultural and educational events were perceived to be spreading Hungarian national culture in the Hungarian national spirit, strict controls were carried out and preventive measures were taken to break this "deviation."[49] Indeed, the ethnopolitical regime of the royal dictatorship considered as "deviation" those efforts which had significantly hindered the creation of Yugoslav ideals, i.e. a homogeneous nation-state, Yugoslav identity and loyalty over several generations. The authorities considered the cultivation and spreading of minority Hungarian culture through associations to be precisely such an aspect.

In any case, the measures had the desired effect, as a year later the district administration informed the internal affairs department of the directorate of the banovina that the associations were complying with the regulations and that they had not detected any attempts to violate the state or the regulations.[50] And report to the public security department for the winter of 1931 said that "cultural conditions among the people and the youth are improving, especially from a national ['nacionalni'] (meaning Yugoslav) point of view."[51]

However, it should be pointed out that the effects of the global economic crisis did not generally curb the life of associations here. In both 1931 and 1933, the district's association life was considered to be in good condition and "particularly satisfactory from a national point of view" from the point of view of public safety. In those years, as in other municipalities in the region, the associations considered to be Yugoslav national in nature were the most active.

After a decline around the turn of the century, Stari Bečej's association cultural life boomed again between the two world wars. Ede Draskóczy,[52] a lawyer, newspaper editor, politician and organiser of Hungarian intellectual life in Vojvodina, played a prominent role in the management of the local association life. (Mák, 2011, p. 7., 13.)

The most significant local minority association was the Hungarian People's Circle, of which Ede Draskóczy was the president. The opening speech of the association's annual general assembly in March 1929 reveals that the association "not only sought to establish understanding contacts with the local ruling organizations and associations", but also successfully established contacts with the most important Serbian cultural institution in Vojvodina, the Matica srpska (Mák, 2011, 131).

The cultural work of the Hungarian associations continued in the following years, despite the generation gaps and the effects of the economic crisis. This can be inferred from the opening speech of association's annual general meeting in April 1933. For example, the association's library had over 4,000 volumes in that year (Mák, 2011, 142).

Conclusion

Based on these three local case studies, it can be concluded that the authorities did not consider the ethnic Hungarian association life along the Tisa river to be homogeneous in terms of political reliability and loyalty. It can be reasonably argued that the leaders of the minority associations in the municipalities closer to the Hungarian-Yugoslav border were considered less politically reliable than the ethnic Hungarian civil leaders of the districts further from the border. While in Stari Bečej most of the association leaders were considered loyal, in the district centre of Senta most of their counterparts were considered politically unreliable by the state security. And in Stara Kanjiža, which is located in the immediate vicinity of the border, the leaders of most of the minority associations were forced to accept that their meetings were supervised by political commissars,

[46] Cf.: Barna – Pernye-Klamár, 2013, p. 344–377.; See more about the work of the associations in Stari Bečej: Ibid.
[47] AV F. 126. II. odeljenje. Broj ПОВ 530. Report of the head of the Senta district on the conditions in the Senta district to the bishop of the Belgrade district (1st November 1929.).
[48] Ibid.
[49] AV F. 126. II. odeljenje. Број: 1303/1929 adm. Report of October 1929. from the Stari Bečej district administration to the Chief Bishop of the Belgrade district.
[50] AV F. 126. II. odeljenje. Broj 7830/1930. adm. Bimonthly report of the Stari Bečej district magistrate's office on the general situation (September–October 1930.) to the internal affairs department of the Banovina Directorate.
[51] AV F. 126. II. odeljenje. Број:1031/1932. Three-monthly report of the Stari Bečej district magistrate's office on the general situation (April–June 1932.) to the Danube Province Public Security Department.
[52] For more on the life story of Ede Draskóczy, see: Mák, 2011.

which was a blatant display of total mistrust of the authorities. It also revealed that in the eyes of the authorities, there was a wide variety of categories of irredentism. It is also clear that there are more 'soft' categories in the districts of Stari Bečej and Stara Kanjiža than in the district of Senta, where, by comparison, there are more 'hard' categories.

Finally, in terms of the activities of ethnic Hungarian associations, the district of Stari Bečej was undoubtedly the most vivid in the 1929–1935 period, where – albeit with systematic obstruction by the authorities – a traditionally strong and religious cultural life continued. The ethnopolitical ambitions of the South Slavic state had already narrowed down the minority civil society. The authorities had the power to classify associations as irredentist nests on the basis of unfounded accusations, as the case of the association in Senta shows. The ethnopolitical measures of the royal dictatorship also had an inhibiting effect on the development of social and cultural life in the Senta district and in Stara Kanjiža, but in the latter two cases it must be taken into account that, according to sources, the ethnic Hungarian middle-class refrained from expressing their opinions publicly during these years. On the basis of public security, police chief and magistrate documents, the ethnic Hungarian intelligentsia in Senta and Stara Kanjiža can be described as having withdrawn from public activity in these years, especially at the beginning of this period. In these areas, a wave of cultural development can be observed from 1932/1933 onwards.

In summary, the case studies from Stara Kanjiža and Senta show the highest degree of similarity in terms of the perceptions of political loyalty of the authorities, the situation and behaviour of the ethnic Hungarian middle-class population and the activity of association work. The district of Stari Bečej, as the authorities considered the majority of the ethnic Hungarian association leaders to be loyal and the traditionally strong local association culture work can be detected, shows marked differences compared to the other two cases.

COMPETING INTERESTS

The author has no competing interests to declare.

REFERENCES

Bárdi N., 2013, Otthon és haza, Csíkszereda, Pro-Print.

Barna G. – Pernye-Klamár S., 2013, “Egyletek és egyesületi élet Óbecsén a 20. század közepéig”, in ed. Barna G. et al, Óbecse a polgárosodás útján, Óbecse, Óbecse Község, p. 344–377.

Bethke C., 2009, Deutsche und ungarische Minderheiten und Kroatien und der Vojvodina 1918–1941. Identitätswürfe und ethnopolitische Mobilisierung, Wiesbaden, Harrassowitz Verlag.

Csurka D., 2009, “Élet a Délvidéken a két világháború között – Társadalmi szervezetek, egyesületek”, in Magyar Fórum, n ° 50, p. 6.

Davies T., 2010, “Civil Society History VI: Early and Mid 20th Century”, in ed. Anheier K., H. et al, International Encyclopedia of Civil Society, New York, Springer-Verlag, p. 361–366.

Dévavári Z., 2022, “Útvesztőben – Magyar országgyűlési képviselők az első délszláv államban”, in ed. Bárdi N. – Gyurcsík I., Nemzetiségi parlamenti képviselet – Nemzetiségi képviselet Magyarországon és az utódállamok parlamentjeiben (1869–1918/ 1920–1990), Budapest. Országház Kiadó, p. 184–229.

Dévavári Z., 2014, Új partok felé, Zenta, Vajdasági Magyar Művelődési Intézet.

Димић Љ., 2020, Културна политика Краљевине Југославије 1918–1941, Београд, ИК Филип Вишњић.

Egry G., 2015, Etnicitás, identitás, politika. Magyar kisebbségek nacionalizmus és regionalizmus között Romániában és Csehszlovákiában 1918–1944, Budapest, Napvilág Kiadó.

Fox Gotham K., 2005, “Civil Society”, in ed. Ritzer G., Encyclopedia of Social Theory. Vol. 1., Thousand Oaks–London–New Delhi, Sage Publications, p. 98–102.

Janjetović Z., 2005, Deca careva, pastorčad kraljeva – Nacionalne manjine u Jugoslaviji 1918– 1941, Beograd, INIS.

Kávai Sz., 2008, Magyarkanizsai társadalmi egyesületek 1945-ig, Szeged, Hálózat a Szabad Információért Alapítvány.

Kepecs J., 1998, A Délvidék településeinek nemzetiségi (anyanyelvi) adatai (1880–1941), Budapest, Központi Statisztikai Hivatal.

Mák F., 2011, Draskóczy Ede – Bizonyítás egyszerű utakon, Zenta, Vajdasági Magyar Művelődési Intézet.

Mesaroš Š., 1981, Položaj Mađara u Vojvodini 1918–1929, Novi Sad, Filozofski fakultet, Institut za istoriju.

Németh F. – Várady T., 2001, Országok változnak, kultúrák maradnak, Újvidék, Forum.

Salat L., 2001, Etnopolitika a konfliktustól a

méltányosságig. Az autentikus kisebbségi lét normatív alapjai, Marosvásárhely, Mentor.

Tolmácsy G., 1980–1981, Zenta társadalmi élete a két háború között – Adalékok a társadalmi egyesületek történetéhez. I–II. rész, Zenta, Dudás Gyula Múzeum- és Levéltárbarátok Köre.

Zeidler M., 2001, A revíziós gondolat, Budapest, Osiris.

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Religion-State Relations and Reconciliation in the Region of Western Balkans

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ABSTRACT

The paper analyses different models of religion-state relations and aims to identify configurations and characteristic of legal order that could impact and foster the reconciliation processes among diverse religious and ethnic groups in the region of Western Balkans. The basic thesis of this paper is that religious organizations have a huge potential to facilitate and contribute to the reconciliation processes. However, the fundamental precondition for successful participation of religious organizations in the public space is the proper legal framework that regulates their legal status. Therefore, the paper aims to identify the proper model of religion-state relationship that enables religious organizations to provide an authentic and genuine contribution to the reconciliation process among nations and religions in the Western Balkans, which has always been diverse in terms of religion, with this diversity deeply rooted in its history. Furthermore, the paper analyses the key characteristics of modern church-state relations, such as state secularity, state neutrality, the protection of religious freedom and the notion of religious autonomy.

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Religion-state relation, secularism, Western Balkans

Introduction

The protection of freedom of religion is a fundamental prerequisite for the participation of religious communities in social and public life. It is essential for fostering peaceful coexistence among diverse churches and religious communities and diverse religious and even ethnic groups. Moreover, freedom of religion constitutes one of the core human rights, safeguarded by both international and domestic law. Not to mention that the European Court of Human Rights (ECtHR) declares that: '*Freedom of thought, conscience, and religion is the foundation of democratic society*'[1]. However, each state adopts its own approach in regulating relationship with religious organizations within the limits set by the international law. Without properly regulated relations between the state and religious organizations, it would be difficult, if not impossible, for religious institutions to effectively engage in any societal activity including reconciliation processes.

This paper argues that religious organizations possess the potential to facilitate reconciliation between diverse religious and ethnic groups. In the Western Balkans, ethnic and religious identities are closely intertwined, making religious issues often carry ethnic or national implications. However, an appropriate legal framework for the protection of religious freedom is essential, as only a free religion in a free society can make an authentic and genuine contribution to the reconciliation process among nations and religions in the Western Balkans (WB). The comparative historical method will be employed to examine the history of state-religion configurations in the region of Western Balkans. Since this is mainly normative research, it will focus on analysis of legislation and legal theories in the field of law and religion.

Therefore, the paper is structured as follows: a brief historical overview of state-religion relations scrutinizes the evolution of key characteristics of those relations in Western Balkans countries (2). Next section provides basic information on modern tendencies in the field of state-religion relations in contemporary Europe (3), while the subsequent section is dedicated to the most prominent classification of state-religion relationships (4). Since all countries in the region of Western Balkans are secular, the paper aims to explore the legal interpretation of this term (5), as well as the provisions on religious freedom protection prescribed by key international human rights instruments (6). The final section of the paper scrutinizes the importance of religious autonomy as a *conditio sine qua non* for free and genuine participation of religious organizations in any type of social activities (7). The results of the analysis are summarized in the conclusion (8).

Results

Brief Historical Overview

Before the First World War religion played an extremely important role in the kingdoms of Serbia and Montenegro, as well as in the Austro-Hungarian Empire. Religious organizations participated in public life and enjoyed preferential legal status. In addition, there were strong institutional connections between the states and particular churches. In the kingdoms of Serbia and Montenegro the Orthodoxy was 'state religion', but a pure model of 'state' church has never been introduced. The 1905 Constitution of the Principality of Montenegro stipulated that state religion in Montenegro was Eastern Orthodox, while freedom was guaranteed to all other recognized religions.[2] According to the 1903 Constitution of the Kingdom of Serbia, the state religion was Eastern Orthodox, while the King was the protector of all recognized religions in Serbia.[3] In both parts of the Austro-Hungarian Monarchy, the state exercised its right to patronage towards the Roman-Catholic church, which even after the adoption of the 1868 Law Regarding Interconfessional Relationships retained some privileges. At the same time, the state exercised supervision towards the other religions and churches.[4] During the First World War, countries of the region, especially Serbia, suffered significant losses.[5] After the end of WWI almost all territories of Western Balkans were unified and a new state was established: the Kingdom of Serbians, Croats and Slovenians (since 1929 the Kingdom of Yugoslavia). After the introduction of the 1921 Constitution the system of 'state religion' was abounded. Nevertheless, the state and church were not separated. Both

[1] Clare Ovey & Robin C.A.: Jacobs and White, The European Convention on Human Rights: White. Oxford. New York. 2006. p. 300.

[2] Ustav za Knjaževinu Crnu Goru, http://srpskaenciklopedija.org/doku.php?id=устав_за_књажевину_црну_гору_1905.

[3] Ustav za Kraljevinu Srbiju, Zbornik LVIII, 552.

[4] Csaba Fazekas, 'The Super-Ego of the Empire: Church and State,' in *The Austro-Hungarian Dual Monarchy (1867-1918)*. ed. Zsuzsa Gaspar (London: New Holland, 2008), 155.

[5] Valentina Cvetković Đorđević, „Epidemija tifusa u Srbiji 1915. godine,' in *Epidemija, pravo, društvo*, ed. Natalija Lukić and Dalibor Đukić (Beograd: Centar za izdavaštvo Pravnog fakulteta Univerziteta u Beogradu, 2022), 210.

constitutions of the kingdom of Yugoslavia provided to recognized churches and religious communities the status of „privileged corporations', whose privileges were further determined by a number of laws and statutes.[6] Religious organizations remained responsible to carry out a number of state affairs (like keeping birth registers).

After the end of the Second World War the communists in the region of Western Balkans adopted the harshest form of secularism which went to the extreme of banning and repressing religion. Formally, the 1946 Constitution of the Federal People's Republic of Yugoslavia guaranteed Freedom of conscience and religion and adopted the system of separation of the state and Church.[7]In practical terms, churches and religious communities faced many difficulties in their activities. Although the church was separated from the state, the state did not separate itself from the church. The autocratic regime of Yugoslav communists continued to control and to intervene into internal issues of religious communities, such as the elections of religious leaders, changes in the internal organization of religious communities, etc.[8] In Albania, the 1976 Constitution aimed at a complete prohibition on the establishment of religious communities. Albania was the world's first officially atheist country.[9] The main characteristic of these regimes is that religion was moved from public sphere and the state authorities.

After the fall of Iron Courtin, the process of democratization commenced in the states of the WB region. During the first decade of XXI century these states made efforts to regulate the legal status of churches and religious communities in their legal systems.[10] Some of them, also, entered into agreements with churches and other religious organizations. These agreements regulate certain aspects of the legal status of religious organizations and usually provide special privileges reserved only for those religious organizations that have signed them. Therefore, these agreements are seen as useful tools for the state to maintain the separation from the church and preserve its neutrality and impartiality in religious matters, while simultaneously it deepens the cooperation with religious organizations.[11] The WB states abounded the model of strict separation between the state and religion and they aligned their legislation in the field of religious freedom with the wider central European patterns and their system of state-religion relations evolved in the direction of cooperation and state support of religion.

Classifications of Religion-State Relations

Different classifications of state-religion systems can be identified in the literature. Renae Barker provides a comprehensive overview of existing typologies of state-religion relationships.[12] They differ to such an extent that their analysis would greatly exceed the scope of this paper. However, the fact is that there are certain tendencies in the field of state-religion relations which due to their importance should be scrutinized before proceeding to analyzing a certain classification of models of state-religion relations.

Each classification has more theoretical than practical significance. When regulating the relationship between the state and the church, the legislator is not guided exclusively by the selected specific model of the relationship between the state and the church but generally takes into account a number of other factors. One gets the impression that adherence to a certain pattern is actually a rarity and that each state can be perceived as a separate model.

Most classifications are based solely on a normative approach without a broader interdisciplinary study of the relationship between the state and the church.[13] The disadvantages of such an approach are one-sidedness, the tendency to generalize and accept stereotypes, and susceptibility to misinterpretations. When speaking about

[6] Slobodan Jovanović, *Iz istorije i književnosti I,* (Beograd: BIGZ, 1991), 526-528.

[7] Art. 25 of the Constitution of the Federal People's Republic of Yugoslavia, Official Gazette of the Federal People's Republic of Yugoslavia, No. 10/1946.

[8] Marko Božić, 'Neither secular state nor laical Republic? Legal position of religious communities in Communist Yugoslavia: Legal framework analysis,' *Pravni zapisi* 10 (2019): 59.

[9] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 172.

[10] Dalibor Đukić, 'State and Religion in Post–Yugoslav States: Is There a Post–Yugoslav Model of Religion–State Relationship?,' in *Contemporary State–Church Law*, ed. Vladimir Đurić and Dalibor Đukić (Beograd-Budva: Institut za uporedno pravo, Mitropolija crnogorsko-primorska, 2023), 520.

[11] Vladimir Đurić, „Ugovorno državno-crkveno pravo,' in *Državno-crkveno pravo kroz vekove*, ed. Vladimir Čolović, Velibor Džomić, Vladimir Đurić, Miloš Stanić (Beograd-Budva: Institut za uporedno pravo, Mitropolija crnogorsko-primorska, 2019), 361.

[12] Renae Barker, 'Law and Religion in the Classroom: Teaching Church-State Relationships,' Australian Journal of Law and Religion, no. 1 (2022): 3.

[13] Russell Sandberg, 'Church-State Relations in Europe: From Legal Models to an Interdisciplinary Approach,' *Journal of Religion in Europe*, 1, 3 (2008): 329-352, doi: https://doi.org/10.1163/187489208X336560.

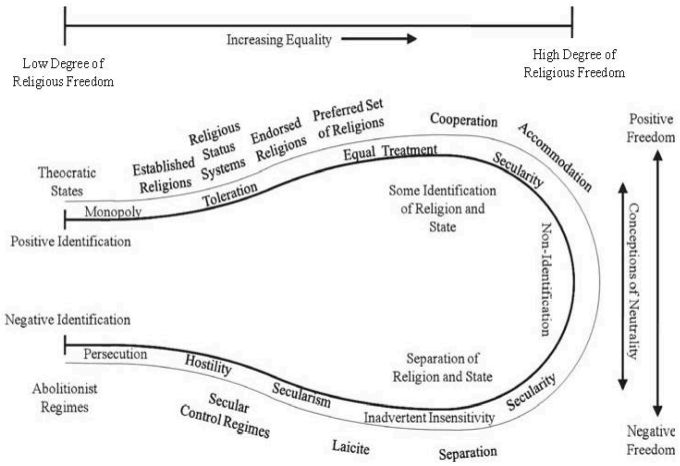
the model of the relationship between the state and the church in a certain state, it is necessary to refer to the historical, sociological, religious, cultural and demographic facts and circumstances in which the specific model is applied. Only on the basis of that broader insight, it is possible to draw concrete conclusions about the model that is being applied and, which is more important, what practical implications for the relations between the state and religion this model produces.

Another important fact that should be mentioned is that today in Europe there are no pure models, i.e. there are no states that consistently respect only one theoretically defined concept of the relationship between the state and the church. One of the reasons why pure models do not exist is the tendency of convergence of different models.[14] States that have been known for the system of the state church in recent decades recognize a certain autonomy to the established churches, while in the states that apply systems of separation there is an increasing development of the cooperation with religious organizations.

The convergence of different models progressively leads to the creation of a unique European model of state-church relations. Silvio Ferrari identifies the following characteristics of the common European model: 1. state neutrality, 2. a religious sub-sector within the public sector is a field where religious organizations have preferential or favorable position and treatment, 3. state interference with religion has been limited to the right of supervision of compliance with the rules and boundaries of the field.[15] Although there can be many objections to the idea of creating a European common model of state-religion relations, the fact is that due to international standards for the protection of religious freedom and the growth of body of substantive norms of EU community law on religion,[16] national regulations on the status of religious organizations in the European continent are brought closer.

The Models of State-Religion Systems

For the purposes of this paper the classification of state-religion models introduced by Durham and Scharff seems



to be appropriate, because it places different models in the context of religious freedom protection and state neutrality. According to their classification, possible models of state-religion relations can be presented as a loop which starts with positive identification of state and religion (those are theocratic systems), it continues through a number of different models and ends with negative identification of state and religion (persecution of religion).[17] Some of those models can disrupt the reconciliation efforts of religions in general. This is especially noticeable in the regimes with state persecution of religion. Furthermore, theocracies can also limit the reconciliation potentials of religion because of the extensive influence of the state on religion. So, the optimal solution should be somewhere between those extremes. The diagram indicates that state-religion models is intertwined with religious freedom that is *condictio sine qua non* for the participation of religion in social processes, including the process of reconciliation between different nations and religious groups.

Theocratic states are quite rare. The absolute identification of the state and religion could be found in previous Taliban state. This model has been abounded from almost all countries in the world that implemented it in the past. However, absolute theocracies are associated with Muslim theory and practice, but also during history Christian, Buddhist and Hindu beliefs succeeded to keep

[14] Sima Avramović, *Prilozi nastanku srpskog državno-crkvenog prava*, (Beograd: Pravni fakultet Univerziteta u Beogradu, 2007), 108.

[15] Silvio Ferrari, 'The New Wine and the Old Cask. Tolerance, Religion and the Law in Contemporary Europe,' Ratio Juris 10, no. 1 (March 1997): 77.

[16] Norman Doe, *Law and Religion in Europe: A Comparative Introduction*, (Oxford: Oxford University Press, 2011), 237.

[17] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 122.

monopolistic positions in different regions and countries.[18] In the WB region, this model of state-religion relationship was dominant during the Ottoman rule, and also in a less strict form in Montenegro during the rule of orthodox bishops.

Next model that should not relate to theocracies is the system of established churches or established religions. Examples can be found in contemporary Europe. United Kingdom is a country with two established churches: the Church of England and Church of Scotland. Orthodox Church is established church in Greece. This model provides various privileges for established churches, which remain a part of the state organization. Usually, the parliament approves internal ecclesiastical rules and legislative acts and appoints religious leaders.[19] Although there is a difference between the legal status of established churches and other non-established religious organizations, that difference does not constitute discrimination against non-established religious organizations. The reason is the fact that despite the different legal status in those systems all religions enjoy a high level of religious freedom and equal treatment is guaranteed.[20] This system, with some modifications, was applied in the kingdoms of Serbia and Montenegro during the 2nd half of XIX century.

Next model is the 'religious status system'. The states that belong to this model recognize the validity of religious legal systems. The state recognizes religious matrimonial law, family law and in some cases the religious personal law. In many states there are still dual systems of marriage laws, like in India and Israel.[21] In the Kingdom of Yugoslavia matrimonial law was under the jurisdiction of religious organizations. Exceptionally, in the matters of inheritance law of Muslims the 'Sharia Law' was officially recognized.

Next model entitled as 'historically favored or endorsed systems' could be described as a soft version of established church. In the states that belong to this model one church or religious organization is not recognized as established, but the constitution or other legislation acknowledge the special importance of one religious' organization for country's history and traditions.[22] This system is typical for countries with Roman Catholic majority. There are countries in which this favored and preferential status is note reserved for a single religious organization, but for a certain set of religions. It is the 'preferred set of religions' models that is usually linked with the recognition of traditional religious organizations and multi-tiered systems of recognition.[23] In this system, there is a top tier reserved for a few religious organizations that enjoy the most favored treatment. They have access to public institutions and funding; they enjoy tax exemptions and other privileges. There is a second tier or intermediate category of religious organizations with recognized legal personality and with the ability to obtain some privileges but not to the same extent as the religious organizations that belong to the highest tier. Finally, there is the lowest tier that provides a basic legal personality but with no possibility of acquiring any state-provided privileges or benefits.[24] Usually, religious organizations are free to choose in which tier they want to belong, but the requirements for registration in higher tiers are extremely difficult to attain, so most small and newly established religious organizations cannot fulfill them. Some elements of this system could be found in most of WB countries, while Serbia is a typical example.

The dominant model in Central and Eastern Europe (CEE) is the cooperationist model. According to the Durham and Torron's definition 'cooperation systems respect fundamental baselines of protecting individual religious freedom for all and the fundamental commitment to neutrality and equality in religious affairs but, understanding those notions in a way that allows the state flexibility to cooperate in a variety of ways with religious communities'.[25] In this system, the state supports religious organizations and their activities in various ways. The

[18] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 125.

[19] Javier Martinez Torron and Cole W. Durham, 'Religion and the Secular State,' in *Religion and the Secular State*, 2nd ed., ed. Donlu D. Thayer (Madrid: Universidad Complutense de Madrid, 2015), 10-11.

[20] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 126.

[21] Javier Martinez Torron and Cole W. Durham, 'Religion and the Secular State,' in *Religion and the Secular State*, 2nd ed., ed. Donlu D. Thayer (Madrid: Universidad Complutense de Madrid, 2015), 11.

[22] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 126.

[23] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 126.

[24] Paul Coleman, 'Freedom of Religion and Freedom of Association' in *A 'Precious Asset'? Analyzing Religious Freedom Protections in Europe*, ed. Adina Portaru (Vienna: Kairos Publications, 2016), 126.

[25] Javier Martinez Torron and Cole W. Durham, 'Religion and the Secular State,' in *Religion and the Secular State*, 2nd ed., ed. Donlu D. Thayer (Madrid: Universidad Complutense de Madrid, 2015), 13.

benefits provided to certain number of religious organizations are usually regulated by special agreements, sometimes called concordats.[26] Most WB states implement the cooperationist model of state-religion relationship.

Accommodationist regimes are those that have adopted the separation of state and religion, but the state maintains 'a posture of benevolent neutrality towards religion'.[27] The state avoids any funding of religious activities but provides other benefits like tax exemptions and generally recognizes the importance of religion for national culture and tradition.[28] In the region of Central and Eastern Europe, Slovenia follows this pattern.

The next system on the loop is the model of separation of the state and religion. Separation of church and state is one of main characteristics of many different models. However, separationist regimes adopt rigid model of separation that attempts to remove religion not only from the narrower state sphere, but also from the broader public sphere.[29] There are states that declare in their constitutions that they are secular or *laïque* and they prohibit the establishment of state religions. The Republic of Serbia is an example of that kind of states in the WB region.

Configuration of state-religion relations that is more hostile towards religious organizations is named 'secular control regimes. Paradoxically, this system shares common features with the system of established religions. The state provides financial support to religious organizations and influences the appointments of religious leaders. However, the aim of the state is to utilize religion for achieving its own goals.[30] There are two versions of this model. In the first one, the secular rulers utilize religion to get political support or to achieve their goals. The second one is more radical and emphasizes the freedom *from* religion for ideological reasons or because of the fear that religion could become a competitive source of legitimacy in society. One of the examples is the Soviet regime which terrorized religion for ideological reasons and because of the fear of counterrevolution.[31] Religious organizations in WB had experienced this model of state-religion relations after WW2.

At the negative end of identification continuum is the most extreme model found in abolitionist states. The state tends to eliminate religion and religious organizations as a social factor.[32] The best example of this model was Albania during the Soviet era.

There are many other possible configurations and combinations of different models that can be operating in different countries. It could be said that there are as many different models as there are states. It should be noted that there is no universally applicable optimal type of relationship between the state and religion. There are no ready-made solutions in this field. Each country should develop its own model which emerges from its social relations, history, political conditions, etc. For example, a cooperation model is not only proper but also necessary in the countries of Eastern Europe, because of the decades of persecution of religion during the communist rule. This model can help churches and religious communities to revitalize their social role after the decades of decadency. That is the reason why this model is actually operating in most WB countries. The optimal model should preserve the neutrality of the state in religious matters and the equality of the religious organizations in the secular state.

Defining the Term Secular

All countries in the WB region are secular. The extreme secularization of state and society during the second half of the 20th century was an irreversible process. There is no universally agreed-upon definition of the term 'secular' in the context of secular state. Many scholars employ a comparative approach, attempting to identify patterns by examining examples from several secular states in order to clarify and define the concept of secularity. Even though terms secular and secularity can be found in numerous legal instruments, a scarcity of judicial interpretations of

[26] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 126.
[27] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 127.
[28] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 127.
[29] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 127.
[30] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 128.
[31] Javier Martinez Torron and Cole W. Durham, 'Religion and the Secular State,' in *Religion and the Secular State*, 2nd ed., ed. Donlu D. Thayer (Madrid: Universidad Complutense de Madrid, 2015), 16.
[32] Cole W. Durham and Brett G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*, Second Edition, (Frederick: Aspen Publishing, 2019), 128.

these terms makes the process of their legal determination even more complex. Also, the concept has become a central 'golden thread'[33] in religious freedom and discrimination rulings by the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU), extending its influence across both the public sphere and the private employment sector.[34]

Some argue that the concept of a secular state, due to its ambiguity and the challenge of establishing a precise meaning, should not be included in constitutional provisions. Nevertheless, more than 30 states expressly employ in their constitution terms like secular or secularity.[35] Furthermore, non-establishment clauses and constitutional provisions requiring the state to maintain neutrality towards religion can be interpreted as implicitly affirming the principle of state secularity.

In order to understand better the issue, it would be useful to explore the terminological difference between the secular, secularity, and secularism. José Casanova explains that in its genuine theological meaning to secularize meant 'to 'make worldly', to convert religious persons or things into secular ones'. He has also pointed out that the secular has emerged 'as a theological category of Western Christendom' and therefore it has no equivalent in other religions.[36] However, states around the globe claim to be secular. The exact meaning of this term in different cultures and regions depends on their peculiarities. Therefore, Georgina Clarke and Renae Barker conclude that 'the secular is multifaceted and has a multiplicity of meanings and usages. Therefore, in applying the term secular to a particular jurisdiction, the circumstances of that jurisdiction should be considered-there is not a 'one size fits all' definition'.[37]

Furthermore, the difference between the terms secularity and secularism should not be overlooked. Brett Scharffs explains this distinction: 'Both secularity and secularism are linked to the general historical process of secularization, but as I use the terms, they have significantly different meanings and practical implications. By 'secularity' I mean an approach to religion-state relations that avoids identification of the state with any particular religion or ideology (including secularism itself) and that endeavors to provide a neutral framework capable of accommodating a wide range of religions and beliefs. By 'secularism', in contrast, I mean an ideological position that is committed to promoting a secular order'.[38] The Roman Catholic doctrine also distinguishes between secularity as 'a healthy cooperation between Church and state', while secularism is perceived as a 'negative conception of separation between Church and state, in which the Church is persecuted or denied its basic rights'.[39]

Analyzing all different definitions of secularity and secularism falls beyond the scope of this paper. This paper argues that secularity of the state does not imply that the state identifies with secularism as an ideology. In a secular state, secularism can only be one of many competing ideologies. This means that the manifestation of religious beliefs in the public sphere is not unwelcome in secular states. The presence of religion and religious organizations in the public sphere is desirable because it is a natural space for acting of religion and a space in which, through confrontation with competing ideologies, it gives its contribution to the development of a democratic and pluralistic society. If they are limited only to the private sphere, in the context of WB societies, that would be a reminder of the negative experiences from the past. In that case, their efforts would be focused on self-protection, and not on contributing to reconciliation between different nations and religions.

The idea of a neutral state, the concept of neutrality

Religious neutrality is an important issue that engages constitutional lawyers, as religious diversity is a significant

[33] Myriam Hunter-Henin: 2022. p. 1.

[34] Myriam Hunter-Henin: 2022. p. 1

[35] E.g. see constitutions of Angola, the Republic of Benin, the Republic of Burundi, Cameroon, Chad, Congo, the Republic of Côte d'Ivoire, the Republic of Gabon, the Republic of Guinea, the Republic of Guinea-Bissau, the Republic of Mali, the Republic of Namibia, the Republic of Rwanda, the Republic of Senegal, the Republic of the Azerbaijan, India, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Togo, Turkmenistan, the Co-operative Republic of Guyana, the Russian Federation, the Republic of Serbia, the Republic of Turkey, Nepal, the Republic of Fiji, the Republic of Ecuador, etc. Georgina Clarke and Renae Barker, 'The Challenge of Defining the Secular,' *Laws*, 13 (2024): 2.

[36] José Casanova, 'The Secular, Secularizations, Secularisms,' in *Rethinking Secularism*, eds. Mark Juergensmeyer and Jonathan Van Atwerpen, (Oxford: Oxford University Press, 2011), 56.

[37] Georgina Clarke and Renae Barker, 'The Challenge of Defining the Secular,' *Laws*, 13 (2024): 16.

[38] Brett G. Scharffs, 'Four Views of the Citadel: The Consequential Distinction between Secularity and Secularism,' Religion and Human Rights, no. 6 (2011): 110.

[39] Evaldo Xavier Gomes, 'Church-State Relations from a Catholic Perspective: General Considerations on Nicolas Sarkozy's New Concept of Laïcité Positive,' *Journal of Catholic Legal Studies*, No. 48, (2009): 211.

phenomenon across Europe. While the religious background and history of each nation deeply define their identity, they also represent their national and cultural heritage. 'One often-affirmed element of the liberal secular ideal is the view that the state should not take a position on the truth of any particular religion.'[40] However, as Schanda expresses: 'the freedom of religion and the relation between the state and church is still a relevant question relating to the identity of state'[41]. We could also reference Giovanni Bonello's concurring opinion in the Lautsi v. Italy case, where the Maltese judge of the ECtHR remarked: 'A court of human rights cannot allow itself to suffer from historical Alzheimer's'[42]. If we examine the Constitutional Courts' practices in the CEE region, we find that in Hungary, an important case already defined the relationship between the state and the churches during the Sólyom era[43], the well-known 4/1993 CC Decision, which stated that: 'From the fact that the state itself is neutral, negative religious freedom does not follow, and even less so the support of religious indifference.'[44]

The reason why it is an important topic, is to understand the position of the CEE and WB countries, and the effect they got for over 40 years, as Katarzyna Zielińska said: 'To the West, human rights are inherent in the individual person; it is the duty of the State to sustain them, and only to impose such limitations as are necessary in order to safeguard the equal rights of others. To the communist East, it was fundamentally wrong, since it makes the individual supreme in significance, and the State secondary.'[45]

Freedom of Religion and Religious Autonomy

Freedom of conscience and religion is one of the basic human rights which are guaranteed by universal and regional human rights instruments. The guarantees contained in international documents have been received and incorporated into domestic law of most, if not all, European countries. The 1948 Universal Declaration on Human Rights of states that 'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance'.[46]

A more complete definition of religious freedom provides the 1966 International Covenant on Civil and Political Rights (ICCPR):

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.[47]

Regional human rights instruments also include similar guarantees of religious freedom. Article 9 of the European Convention on Human Rights provides that:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

[40] Henrik Friberg-Fernros: Against the Religious Neutrality Requirement. Ratio Juris. Vol. 35 No. 4 December 2022. p. 383.

[41] Balázs, Schanda: In. András, Jakab, László, Trócsányi: Az Alkotmány Kommentárja. Századvég kiadó. p. 2195.

[42] Lautsi and others v. Italy. Available: https://hudoc.echr.coe.int/eng#{%22appno%22:[%2230814/06%22],%22itemid%22:[%22001-104040%22]}

[43] The era is named after the first President of the Constitutional Court of Hungary following the regime change.

[44] 4/1193. (II. 12.) CC Decision. Available: https://njt.hu/jogszabaly/1993-4-30-75

[45] Katarzyna Zielińska: The Roman Catholic Church and Human Rights in Poland. In: Hans-Georg Ziebertz, Gordan Črpić: Religion and Human Rights An International Perspective. Springer. 2015. p. 138.

[46] https://www.un.org/en/about-us/universal-declaration-of-human-rights

[47] https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.[48]

The provisions of international treaties show that freedom of religion is a specific right that has a few different dimensions that are interconnected: individual, internal, collective, and external. All of them are extremely important for religious organizations and their religious mission. The very essence of this right is the right of individuals to hold, keep and change their convictions or beliefs. This is the inner area of religious freedom (referred also as *forum internum*), that enjoys absolute protection.[49] The state cannot justify any attempt of indoctrination of individuals or interference with personal beliefs. Protection of individual freedom of religion is linked with the *forum internum*. Most of the international instruments of human rights explicitly protect the right of individuals to manifest their religion 'either alone or in community' (referred also as *forum externum*). International law also protects the collective aspect of religious freedom, which is essential for religious communities, as communities of adherents of certain religions. Religious communities should be free to structure their internal organization, organize worship and observance and define their teachings without state interference. Contrary to the inner aspect of freedom of religion which cannot be limited, the manifestation of religion (*forum externum*) can be limited under certain conditions. According to international conventions such on the manifestation of religion should be prescribed by law, necessary in a democratic society and pursue a legitimate aim (those conditions are applicable to other human rights).

The participation of religion in the process of reconciliation actually depends on religious communities. They are able to contribute to these processes by their teachings, religious practices and the right theological interpretation of religious doctrine. Although, they should be free to do it and protected from any unjustified and arbitrary state interference with the collective manifestation of religion or belief. That is the reason why international protection of religious freedom can play an important role in providing conditions for the participation of religious communities in the process of reconciliation.

One of the most vital elements of freedom of religion is religious autonomy. According to Cole Durham, 'there cannot be religious freedom for the communal side of religion unless the religious community *qua* community has autonomy'.[50] If beliefs and teachings of religious communities can be manipulated or coerced by external sources then they cannot be 'fully and authentically themselves'. The idea that secular and religious orders should be separate could be found even in the New Testament in Jesus' words: 'Render unto Caesar the things which are Caesar's, and unto God the things that are God's'.[51] This separation between the spiritual and the temporal implies the independence of religion from any state or external interference.

Mark Chopko defines religious autonomy as 'the right of religious communities (hierarchical, connectional, and congregational) to decide upon and administer their own internal religious affairs without interference by the institutions of government'.[52] Perry Dane defines religious autonomy as the 'effort by secular law to make sense of religious self-governance, particularly institutional or communal self-governance'.[53] In German Law religious autonomy is linked to the right of self-determination of religious organizations. According to von Campenhausen 'the self-determination right covers matters that are the religious organization's *own*'.[54]

Overall, religious autonomy includes the right of religious organizations to independently structure their internal order and organization, to independently decide on their religious identity and their internal affairs, the right to obtain legal personality and to provide and terminate the capacity of legal person to their organizational units, to perform their internal and public affairs autonomously, the right to implement their autonomous legal regulations, the right to spread their cultural and spiritual experiences, the right to organize and conduct religious education, the right

[48] https://www.echr.coe.int/documents/d/echr/convention_ENG

[49] Paul M. Taylor, *Freedom of Religion: UN and European Human Rights Law and Practice*, (Cambridge: Cambridge University Press, 2006), 115.

[50] Cole Durham, 'The Right to Autonomy in Religious Affairs: A Comparative View', in *Church Autonomy: A Comparative Survey*, ed. G. Robbers (Frankfurt am Main: Peter Lang, 2001), 690.

[51] Matthew 22:21.

[52] Mark E. Chopko, 'Constitutional Protection for Church Autonomy: A Practitioner's View', in *Church Autonomy: A Comparative Perspective*, ed. Gerhard Robbers, (Frankfurt am Main: Peter Lang, 2001).

[53] Perry Dane, 'The Varieties of Religious Autonomy', in *Church Autonomy: A Comparative Perspective*, ed. Gerhard Robbers, (Frankfurt am Main: Peter Lang, 2001).

[54] Cole Durham, 'The Right to Autonomy in Religious Affairs: A Comparative View', in *Church Autonomy: A Comparative Survey*, ed. G. Robbers (Frankfurt am Main: Peter Lang, 2001), 692.

to independently manage their property and incomes in accordance with their own autonomous regulations etc.

The protection of the autonomy of religious organizations is the quintessence of religious freedom. Without autonomy in their internal affairs, and especially in matters of religious identity, it is difficult or even impossible for religious organizations to provide their authentic and genuine contribution to the wider community and to participate in the process of reconciliation between different religious groups.

Conclusion

The brief hysterical overview indicates that WB states have experienced different and extreme models of state-religion relations. From the positive identification before WW2 including the establishment of state churches, through the negative identification after WW2 that resulted in state persecution and banning of religion. In the first decade of the 21st century WB countries finally succeeded in adopting models of state-religion relationship that allow to religious organizations to recover from decades of persecution and to participate in various social activities.

The model of religion-state relations that is operating in WB countries is the mixture of two very close configurations of religion-state relations. The first of them is the preferred set religions. Some WB countries distinguish a number of religions (sometimes called traditional religions) and give them special status and privileges. For example, in Bosnia and Herzegovina, the law especially regulates the status of four churches and religious communities, from which two have signed a basic agreement with the state. In Serbia, there are seven traditional churches and religious communities which have been recognized *ex officio,* and they enjoy numerous advantages. In other states, there are also different tiers of religious organizations, like those who have entered into agreements with the state and those who have not.

The second configuration which is operating in WB states is the cooperation model. There are countless ways that cooperation between state and religion can be structured. For example, in almost all WB countries, with only a few exceptions, religious organizations have access to state financial support; they enjoy tax-exempts, they conduct religious instruction in public schools etc. The state remains neutral in religious matters, although neutrality is not hostile but friendly and cooperative. This mixture of 'multi-tier' regimes of recognition of religious organizations and cooperationist regime helps religious communities to revitalize after the decades of stagnation and decadency during the rule of the communist regime. It is, also, the optimal model that can encourage religions to participate in the reconciliation process in WB countries.

All countries of WB are secular, although they have a positive posture towards religion. Secularity has been understood as an opportunity for cooperation between the state and religion in matters of common interest. There are two main characteristics of the secular state. The first one is the separation of religion and state, and the second one is the protection of religious freedom. The state and religion have been separated in WB countries, although we can identify attempts of politicians to intervene in religious matters. However, the separation of state and religion and a high degree of religious freedom with protection of religious autonomy are the preconditions for the development of the social role of religion. Only free religion in a free state can provide its authentic and genuine contribution to the process of reconciliation between the nations and religions in the region of Western Balkans.

COMPETING INTERESTS

The author has no competing interests to declare.

REFERENCES

Avramović, Sima. *Prilozi nastanku srpskog državno-crkvenog prava.* Beograd: Pravni fakultet Univerziteta u Beogradu, 2007.

Balázs, Schanda. Lelkiismereti és vallásszabadság. In András Jakab and László Trócsányi. *Az Alkotmány Kommentárja. pp. 2194-2218* Századvég kiadó.

Barker, Renae. 'Law and Religion in the Classroom: Teaching Church-State Relationships.' *Australian Journal of Law and Religion*, no. 1 (2022): 3.

Božić, Marko. 'Neither secular state nor laical Republic? Legal position of religious communities in Communist Yugoslavia: Legal framework analysis.' *Pravni zapisi* 10 (2019): 40–64.

Chopko, E. Mark. 'Constitutional Protection for Church Autonomy: A Practitioner's View.' In *Church Autonomy: A Comparative Perspective*, edited by Gerhard Robbers. Frankfurt am Main: Peter Lang, 2001.

Clarke, Georgina, and Renae Barker. 'The Challenge of Defining the Secular.' *Laws* 13 (2024): 1–20.

Coleman, Paul. 'Freedom of Religion and Freedom of Association.' In *A 'Precious Asset'? Analyzing Religious Freedom Protections in Europe*, edited

by Adina Portaru, 121–142. Vienna: Kairos Publications, 2016.

Constitution of the Federal People's Republic of Yugoslavia. *Official Gazette of the Federal People's Republic of Yugoslavia*, No. 10/1946.

Cvetković Đorđević, Valentina. 'Epidemija tifusa u Srbiji 1915. godine.' In *Epidemija, pravo, društvo*, edited by Natalija Lukić and Dalibor Đukić, 209–218. Beograd: Centar za izdavaštvo Pravnog fakulteta Univerziteta u Beogradu, 2022.

Doe, Norman. *Law and Religion in Europe: A Comparative Introduction.* Oxford: Oxford University Press, 2011.

Đukić, Dalibor. 'State and Religion in Post-Yugoslav States: Is There a Post-Yugoslav Model of Religion–State Relationship?' In *Contemporary State–Church Law*, edited by Vladimir Đurić and Dalibor Đukić, 503–526. Beograd-Budva: Institut za uporedno pravo, Mitropolija crnogorsko-primorska, 2023.

Đurić, Vladimir. 'Ugovorno državno-crkveno pravo.' In *Državno-crkveno pravo kroz vekove*, edited by Vladimir Čolović, Velibor Džomić, Vladimir Đurić, and Miloš Stanić, 361. Beograd-Budva: Institut za uporedno pravo, Mitropolija crnogorsko-primorska, 2019.

Durham, Cole. 'The Right to Autonomy in Religious Affairs: A Comparative View.' In *Church Autonomy: A Comparative Survey*, edited by Gerhard Robbers. Frankfurt am Main: Peter Lang, 2001.

Durham, W. Cole, and Brett G. Scharffs. *Law and Religion: National, International, and Comparative Perspectives.* 2nd Edition. Frederick: Aspen Publishing, 2019.

Fazekas, Csaba. 'The Super-Ego of the Empire: Church and State.' In *The Austro-Hungarian Dual Monarchy (1867–1918)*, edited by Zsuzsa Gaspar, 152–175. London: New Holland, 2008.

Ferrari, Silvio. 'The New Wine and the Old Cask. Tolerance, Religion and the Law in Contemporary Europe.' *Ratio Juris* 10, no. 1 (March 1997): 77.

Friberg-Fernros, Henrik. 'Against the Religious Neutrality Requirement.' *Ratio Juris* 35, no. 4 (December 2022).

Gomes, Evaldo Xavier. 'Church-State Relations from a Catholic Perspective: General Considerations on Nicolas Sarkozy's New Concept of Laïcité Positive.' *Journal of Catholic Legal Studies* 48 (2009): 201–218.

Jovanović, Slobodan. *Iz istorije i književnosti I.* Beograd: BIGZ, 1991.

Katarzyna Zielińska. 'The Roman Catholic Church and Human Rights in Poland.' In *Religion and Human Rights: An International Perspective*, edited by Hans-Georg Ziebertz and Gordan Črpić. Springer, 2015.

Perry Dane. 'The Varieties of Religious Autonomy.' In *Church Autonomy: A Comparative Perspective*, edited by Gerhard Robbers. Frankfurt am Main: Peter Lang, 2001.

Sandberg, Russell. 'Church-State Relations in Europe: From Legal Models to an Interdisciplinary Approach.' *Journal of Religion in Europe* 1, no. 3 (2008): 329–352. https://doi.org/10.1163/187489208X336560.

Scharffs, Brett. 'Four Views of the Citadel: The Consequential Distinction between Secularity and Secularism.' *Religion and Human Rights* 6 (2011): 109–126.

Taylor, M. Paul. *Freedom of Religion: UN and European Human Rights Law and Practice.* Cambridge: Cambridge University Press, 2006.

Torron, Javier Martinez, and Cole W. Durham. 'Religion and the Secular State.' In *Religion and the Secular State*, 2nd Edition, edited by Donlu D. Thayer, 1–64. Madrid: Universidad Complutense de Madrid, 2015.

Ustav za Knjaževinu Crnu Goru. http://srpskaenciklopedija.org/doku.php?id=устав_за_књажевину_црну_гору_1905.

Ustav za Kraljevinu Srbiju. *Zbornik* LVIII, 552.

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