

# 5 MULTIPLE CITIZENSHIP IN HUNGARY: RECENT DEVELOPMENTS IN A EUROPEAN PERSPECTIVE

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## 5.1 INTRODUCTION

Nearly a quarter of all ethnic Hungarians live outside Hungary in neighbouring states as autochthonous minority groups, thus ‘the dimensions of Hungary’s kin-minority problem are unusually large even for Europe.’<sup>1</sup> With the adoption of new symbolic and normative instruments, Hungary is striving for unifying the Hungarian nation over and above existing state borders. The idea of multiple citizenship emerged in Hungary as part of a wider European trend: in recent years it became clear that more and more states are moving towards a more tolerant approach to multiple citizenship.<sup>2</sup> This trend is clearly visible both in Western and in Central and Eastern Europe, albeit for different reasons.

The national policy of the new Hungarian government lays special emphasis on national integration and the institutionalisation of the relationship between the kin-state and ethnic Hungarians living abroad. The strategic aim of national policy is to support the integration of nationals living abroad to their own communities within the titular state, as well as enhancing their inclusion into the Hungarian nation by way of reinforcing the citizenship link between the minority groups and the Hungarian kin-state. In the framework of an increased engagement with kin-minority communities, the amendment of the Citizenship Law and the expansion of voting rights became a principal area of national policy. By February 2014, 575,000 persons applied for Hungarian citizenship and 510,000 of them chose to take the citizenship oath. With regard to external voting, 138,027 new Hungarian citizens applied for enrolment in the electoral register, and 118,263 were registered to vote at the election held on 6 April 2014. These data show that the extension of Hungarian citizenship by way of the simplified naturalisation process and the granting of voting rights for external citizens was much welcomed by Hungarians living beyond the state borders.

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1 M.M. Kovács and J. Tóth, ‘Kin-State Responsibility and Ethnic Citizenship: The Hungarian Case’, in R. Bauböck et al. (Eds.), *Citizenship Policies in the New Europe*, Amsterdam University Press – IMISCOE Research, Amsterdam, 2009, p. 159.

2 See e.g. J.K. Blatter et al., *Acceptance of Dual Citizenship: Empirical Data and Political Contexts*, Working Paper Series ‘Glocal Governance and Democracy’, University of Lucerne, Lucerne, p. 1.

## 5.2 THE INCREASING ACCEPTANCE OF DUAL CITIZENSHIP IN EUROPE

Pursuant to European Union law<sup>3</sup> and the European Convention on Nationality,<sup>4</sup> it is up to the laws of each Member State to determine – in accordance with EU law – who are the citizens of the state. In the past 15-20 years, we witness a clear global and European trend regarding the adoption of dual citizenship. The institution of dual citizenship is becoming more and more accepted in EU Member States as part of a general European liberalisation process.<sup>5</sup> According to Marcel Szabó, this progress is based on the fact that citizenship has gradually lost its strictly national and ethnical characteristics within the European Union. Parallel to this, ‘Member State citizenship has lost its discriminatory function and its nature of a membership affording certain prerogatives, and has essentially evolved to become a legal bond reflecting the self-understanding of a political community.’<sup>6</sup>

The Hungarian dual citizenship initiative was based on fundamentally different arguments than those underlying the adoption of dual citizenship in the major Western European immigration states.<sup>7</sup> While immigration states consider dual citizenship as an instrument for the inclusion and integration of labour immigrants, the focus of dual citizenship legislation in Hungary rests primarily on maintaining links with external co-ethnics,<sup>8</sup> thus it reaffirms the connection between ethno-cultural nationality and citizenship as a counter-trend in Europe characteristic in Central and Eastern European countries.<sup>9</sup> Reference to the link with co-ethnic minorities abroad was wholly absent from the communist-era legislation of Central and Eastern European states. Living abroad *per se* raised distrust in the Communist regimes, hence, dual citizenship remained a taboo until the change of the political system. As a consequence of historical shifts within these countries, such as the dissolution of Yugoslavia, members of the nations dispersed in the neighbouring states.<sup>10</sup> Today, common national and cultural identity is recognised both in the constitution

3 Declaration No. 2 annexed to the Treaty of Maastricht on nationality of a Member State. See <http://eur-lex.europa.eu/>.

4 Council of Europe, European Convention on Nationality, 6 November 1997, ETS 166, Art. 3.

5 L. Trócsányi, ‘The Regulation of External Voting at National and International Level’, 16 *Minority Studies, Trends and Directions of Kin-State Policies in Europe and Across the Globe* (2013), p. 15.

6 M. Szabó, ‘International Law and European Law Aspects of External Voting with Special Regard to Dual Citizenship’, 16 *Minority Studies, Trends and Directions of Kin-State Policies in Europe and Across the Globe*, (2013), p. 44.

7 E. Herner-Kovács and Z. Kántor, ‘Kin-State Policies in Europe’, 16 *Minority Studies, Trends and Directions of Kin-State Policies in Europe and Across the Globe* (2013), p. 7.

8 Kovács and Tóth (2009), p. 12.

9 B. Fowler, ‘Fuzzing Citizenship, Nationalising Political Space: A Framework for Interpreting the Hungarian “Status Law” as a New Form of Kin-state Policy in Central and Eastern Europe’, in Z. Kántor et al. (Eds.), *The Hungarian Status Law Syndrome: A Nation Building and/or Minority Protection*, Sapporo, Hokkaido University Press, 2004, pp. 196-197.

10 C. Iordachi, ‘Dual Citizenship and Policies toward Kin-Minorities in East-Central Europe: A Comparison between Hungary, Romania, and the Republic of Moldova’, in Z. Kántor et al. (Eds.), *The Hungarian Status*

and the citizenship law of those Central and Eastern European states which accept the institution of dual citizenship.<sup>11</sup> Such provisions can be found *inter alia* in the Croatian, Hungarian, Polish, Romanian, Serbian, Slovenian and Czech citizenship laws. The above is substantiated by the fact that even the rejective Czech Republic adopted an amendment to the Czech Citizenship Act which just recently permitted dual citizenship, moreover, it introduced a highly preferential naturalisation procedure. This means that, with the exception of certain cases, former citizens and their descendants may renounce their citizenship by a simple declaration.

### 5.3 RECENT CHANGES TO THE HUNGARIAN CITIZENSHIP LAW

This major change of attitude towards Hungarian minorities was clearly expressed in the new Hungarian constitution, called the Fundamental Law, which came into effect on 1 January 2012.<sup>12</sup> The previous constitution merely referred to Hungary's sense of responsibility for the fate of Hungarians living abroad and the promotion of their relations with the motherland.<sup>13</sup> By contrast, the current constitution stipulates that

Hungary shall bear responsibility for the fate of Hungarians living beyond its borders, and shall facilitate the survival and development of their communities; it shall support their efforts to preserve their Hungarian identity, the assertion of their individual and collective rights, the establishment of their community

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*Law Syndrome: A Nation Building and/or Minority Protection*, Sapporo, Hokkaido University Press, 2004, pp. 264-266.

- 11 Drawing from the above analysis, it is quite evident that the present situation in Central and Eastern Europe could hardly be foreseen one or two decades ago. Likewise, it would be a difficult task today to predict the future of European citizenship regimes. We could mention Scotland in the first place, where a referendum is soon to come on whether Scotland should be an independent country. Interesting questions may arise from a possible autonomy, with implications on the institution of dual citizenship as well. Around 800,000 Scottish nationals live in England and ca. 400,000 British people resides in Scotland, which proves that the definition of identity still remains a difficult question. In Belgium, the ongoing conflict between the different linguistic communities, regions and the central government led to a political crisis. What happens if the governing authorities cannot preserve the state any further? Will the communities become separated or will some of them join one of the neighbouring countries? What will happen to the national minorities and what will be the status of Brussels? Spain may also find itself in a new position, since the current Catalan and Bask aspirations towards separation are becoming more intense. The regions' situation, but also the out of region minorities and the question of identity further complicate the case. The Spanish law does not tolerate dual citizenship in general, however, Spain has concluded bilateral agreements mainly with Latin American states, which recognise dual citizenship.
- 12 A. Sobják, 'The Implications of Hungary's National Policy for Relations with Neighbouring States', *The Polish Institute of International Affairs*, Policy Paper, No. 32, 2012, p. 2.
- 13 Art. 6(3) of Act XX of 1949 on the Constitution of the Hungarian Republic.

self-governments, and their prosperity in their native lands, and shall promote their cooperation with each other and with Hungary.<sup>14</sup>

Drawing from the spirit of the Fundamental Law, the Hungarian Parliament adopted the Act XLIV of 2010 amending Act LV of 1993 on the Hungarian Nationality almost unanimously on 6 May 2010.<sup>15</sup> By means of the new legislation the Parliament intended – contrary to the former Status Law<sup>16</sup> – to provide the possibility for the great number of Hungarians who, due to historical reasons, live beyond the country's borders, to request naturalisation on preferential terms irrespective of their place of residence. Pursuant to the Act, those Hungarian nationals are also entitled to apply for Hungarian citizenship who wish to remain in their country of origin without establishing a residence in Hungary, and are thus linked to Hungary exclusively by their nationality.<sup>17</sup>

#### 5.4 THE SIMPLIFIED NATURALISATION PROCEDURE

Preferential naturalisation is a common practice in citizenship law and this kind of preferential treatment is not deemed discriminatory under international law. Several countries apply preferential naturalization on ethnic, cultural or linguistic grounds including citizenship for co-ethnics who are citizens of another state. In Hungary, anybody can apply for simplified naturalisation without nationality being taken into account. The Hungarian

14 Art. D of The Fundamental Law of Hungary, 25 April 2011.

15 The adoption of the Act was preceded by lively political debates and a referendum on dual citizenship held on 5 December 2004. The referendum question read as follows: 'Do you think Parliament should pass a law allowing Hungarian citizenship with preferential naturalization to be granted to those, at their request, who claim to have Hungarian nationality, do not live in Hungary and are not Hungarian citizens, and who prove their Hungarian nationality by means of a 'Hungarian identity card' issued pursuant to Article 19 of Act LXII/2001 or in another way to be determined by the law which is to be passed?' The novelty of the referendum lies in the fact that it raised the question of introducing non-residential citizenship to Hungarians living abroad on the grounds of Hungarian nationality, without the need to fulfill any residence requirement.

16 The Act LXII of 2001 on Ethnic Hungarians Living in Neighbouring Countries (usually called the Status Law) granted a set of cultural and economic rights to Hungarians living in adjacent states – with the exception of Austria – who are holding an ethnic identity card. The main purpose of the Act was to enable Hungarian minorities to stay and prosper in their titular state. Nevertheless, Hungary was accused by Romania of calling the sovereignty of the neighbouring states into question with the unilateral adoption of the Status Law going beyond the European standards and having extraterritorial implications. It is important to note that a few years later (in 2006 and 2007) Slovenia and Poland introduced new citizenship legislation serving a similar purpose. See C. Iordachi, 'A nemzet újrajazolt határai: a magyar 'státustörvény' és Románia kettős állampolgárságra vonatkozó politikája a Moldovai Köztársaságban' ['Redrawn borders of the nation: the Hungarian Status Law and Romania's dual citizenship policy in the Moldovan Republic'], in Z. Kántor (Ed.), *A státustörvény – Előzmények és következmények* [The Status Law – Antecedents and Consequences], Budapest, Teleki László Alapítvány, 2002, p. 90.

17 Á. Tóttós, 'Állampolgársági feltételek – tényleg szuverén a tagállam?' ['Conditions of naturalisation – is the Member State really sovereign?'], *Pécsi Határőr Tudományos Közlemények*, No. 11, 2010, p. 218.

rules are not rooted in ethnic conditions, as long as the applicant fulfills all criteria, the national identity will not be examined. In the course of simplified naturalisation, apart from the conditions of the traditional naturalisation procedure two further criteria need to be fulfilled, such as the proof of the citizenship of Hungarian ancestors or the substantiation<sup>18</sup> of Hungarian origin and the proof of proficiency in the Hungarian language.<sup>19</sup> Since the latest amendment of the Hungarian Citizenship Act has been introduced on 1 March 2013, the applicant is also eligible for preferential naturalisation, if he or she has been lawfully married for at least ten years to a person holding a Hungarian citizenship at the time the petition for citizenship was submitted, or lawfully married for at least five years to a person, holding a Hungarian citizenship at the time the petition for citizenship was submitted and they have a child from the marriage, provided that the applicant can prove proficiency in the Hungarian language.<sup>20</sup> These conditions can obviously justify the necessary genuine link between the applicant and the state. Since Hungary tolerates multiple citizenship, applicants are not required to relinquish previous citizenship upon naturalisation.<sup>21</sup> Dual citizens possessing another citizenship are entitled to the same rights and obligations as other nationals in the territory of Hungary, with the exception of employment in the police force or security bodies.<sup>22</sup>

The Parliament chose to codify those legal solutions which were already applied in other Central and Eastern European states. The new amendment may be compared to the current Romanian regulation,<sup>23</sup> which allows primarily for Romanians in Moldova to acquire Romanian citizenship on preferential terms. A similar citizenship regulation has been adopted in Serbia,<sup>24</sup> where citizenship may be obtained also on the basis of citizenship of ancestors without the criteria of residence in the country.<sup>25</sup> Therefore in general, the new regulation did not bring about any serious discord within Central European relations, neither did it cause any tension in the context of pan-European or overseas connections. The only exceptions are Slovakia and the Ukraine. In response to the new Hungarian law, the Slovak Parliament passed an amendment of its Citizenship Act to limit dual citizenship by barring Slovak citizenship for those applying to another country for citizenship. Never-

18 This provision pertains to the Csango people, who were previously not allowed to obtain Hungarian citizenship on preferential terms.

19 Art. 4(3) of Act XLIV of 2010 amending Act LV of 1993 on the Hungarian Nationality.

20 *Ibid.* Art. 4(3a).

21 Sz. Pogonyi, 'Naturalisation procedures for immigrants: Hungary', *EUDO Citizenship Observatory*, No. 12, 2013, p. 3.

22 J. Tóth, 'Aspects of Analyzing the Minority Problem', in L. Szarka (Ed.), *Hungary and the Hungarian Minorities: Trends in the Past and in Our Time*, Atlantic Studies on Society in Change, No. 122, East-European Monographs. New York, Columbia University Press, 2004, pp. 223-244.

23 See Art. 10 of Act 21 of 1991 on Romanian citizenship.

24 See Act XC of 2007 amending Act CXXXV of 2004 on Citizenship of the Republic of Serbia.

25 Z.A. Sáska, 'A sokat vitatott "Állampolgárság" ["The most disputed "citizenship"]', 6(1) *Hadtudományi Szemle* (2013), p. 150.

theless, it is worth noting that between 1997 and 2005 the Slovak citizenship regulation<sup>26</sup> also contained a preferential naturalisation procedure for the non-Slovak citizens on the basis of Slovak nationality. As a consequence of the previous Slovak regulation, around 10,000 Slovak nationals living in Romania and Serbia were granted citizenship. Pursuant to the current Slovak citizenship rules, the citizen is *ex lege* deprived of citizenship upon naturalisation in another country. Up to this day about 640 people lost their Slovak citizenship, but only 42 were Hungarians, others obtained mostly Czech, German or Austrian citizenship.

In addition to the Slovak reaction, the Ukraine did not welcome the Hungarian resolution either. Ukrainian law does not recognise multiple nationality, dual nationals are treated as citizens of Ukraine. In case dual citizens do not renounce Ukrainian citizenship upon acquiring another citizenship, they face potential fines.<sup>27</sup> Consequently, applications for obtaining Hungarian citizenship were submitted primarily in Transylvania and Serbia. Previously formulated fears concerning migration eventually turned out to be unsubstantiated, showing that acquisition of citizenship in effect enhances identity and has a supportive impact on integration into the local communities.

A considerable amount of people have already applied for the Hungarian citizenship in the past 3,5 years; more than 575,000 people, which is an outstanding number. According to Eurostat statistics, in 2011 the country with the highest naturalisation rate was Hungary.<sup>28</sup> This is beyond doubt a highly relevant progress. We cannot forget that the regulation affects human lives, for instance that of the eldest applicant from New York, who asked for Hungarian citizenship at the age of 104 to become a Hungarian national for the third time in her life.

## 5.5 IMPLICATIONS FOR THE PRINCIPLE OF GENUINE LINK

The principle of genuine link is the legal expression of the fact that the individual is more closely connected with the state whose citizen he or she is than with any other state.<sup>29</sup> This principle does not *per se* exclude dual citizenship, however, its requirement of maintaining close and genuine economic, social and cultural relations renders it difficult to form equally close connections to several states at the same time. This means that the mere ethnic origin of Hungarian minorities does not constitute a proof of genuine link. Therefore, the Hungarian government has to stand up for its effective relationship with external citizens in all forms of international diplomacy. Otherwise, there is no possibility of ensuring the

26 See Act XL of 1993 on Citizenship of the Slovak Republic.

27 Cf. [www.politics.hu/20121005/hungary-expresses-dismay-over-ukraine-plan-to-penalize-dual-citizenship/](http://www.politics.hu/20121005/hungary-expresses-dismay-over-ukraine-plan-to-penalize-dual-citizenship/).

28 Cf. [http://madde14.org/english/index.php?title=Eurostat\\_-\\_Migration\\_and\\_Migrant\\_Population\\_Statistics](http://madde14.org/english/index.php?title=Eurostat_-_Migration_and_Migrant_Population_Statistics).

29 See *Liechtenstein v. Guatemala*, 1955 WL 1 (I.C.J.), 1955 I.C.J. p. 4.

rights to diplomatic and consular protection and other citizens' rights enshrined in international conventions.<sup>30</sup>

In light of the new Hungarian regulation and its similar European counterparts, we must raise the following question: what meaning does the genuine link principle hold in our increasingly globalised, deterritorialised world? As Bauböck asserts, 'a strictly territorial conception of political community is not plausible in a world where large numbers of people move across international borders and settle abroad.'<sup>31</sup> This phenomenon is described as the deterritorialization of citizenship.<sup>32</sup> In light of this trend, the previous approaches seem to be outdated and anachronistic, they might have been appropriate a hundred years ago for the French-German relations or at the time of the iron curtain of the cold war era. If today a Hungarian citizen registers himself as a job-seeker in Vienna and establishes his residence there, can we speak about an existing genuine link between him and the Hungarian state? If his company sends him to one of the European or overseas offices every month, to which country does he most belong? It seems that a hundred year old Hungarian woman's link should be considered stronger if she lived her entire life in her hometown in Slovakia, has already twice been a Hungarian citizen, always maintaining a strong connection with Hungarian culture and the nation, and now, she received the Hungarian citizenship for the third time.

It is worth mentioning that the genuine link principle requires a close, factual and effective relationship between the state and the applicants for naturalisation, however, for non-dual citizens living abroad, the genuine and effective link is irrelevant.<sup>33</sup> An interesting example of the difficulties arising from the interpretation of the genuine link principle in the 21st century is the new Slovak law, which limits dual citizenship to those who acquired it at birth or through marriage. As a consequence, those Hungarian nationals, who lost Slovak citizenship as a result of applying for naturalisation in Hungary, have to live as foreign citizens in their homeland, while Slovak citizens living abroad may uphold their citizenship. For instance, the 102 years old Ms. Ilonka Tamás, who was deprived of her Slovak citizenship after acquiring Hungarian citizenship, applied for registration in line with the provisions of Directive 2004/38/EC<sup>34</sup> in order to get access to health care and

30 J. Tóth: 'Miért nem lehet, ha szabad? A többes állampolgárság a nemzetközi és az európai közösségi jog felől' ['Why isn't it possible if it is allowed? Multiple citizenship in the light of international law and European law'], *Romániai Magyar Jogtudományi Közlöny*, No. 2, 2004, p. 7. Available at <http://rmjk.adatbank.transindex.ro/pdf/01KozjogToth.pdf>.

31 R. Bauböck, 'Stakeholder Citizenship and Transnational Political Participation: A Normative Evaluation of External Voting', 75(5) *Fordham Law Review* (2007), p. 2419.

32 See e.g. L.L. Wong: 'Home Away from Home? Transnationalism and the Canadian Citizenship Regime', in P. Kennedy and V. Roudometof (Eds.), *Communities Across Borders: New Immigrants and Transnational Cultures*, New York, Routledge, 2002, pp. 175-176.

33 Kovács and Tóth (2009), p. 5.

34 European Parliament and Council Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

social services in Slovakia. Nevertheless, the Slovak legal system and authorities could not properly handle her application, since in this case the latest foreign place of residence was lacking. Ms. Ilonka Tamás, who lived in Rimaszombat all her life, did not have a previous Hungarian place of residence. Therefore, a quite absurd solution was found: her ‘new’ residence was Rimavská Sobota, Slovakia, while her latest foreign place of residence was indicated as Rimaszombat, Hungary.

## 5.6 VOTING RIGHTS OF EXTERNAL CITIZENS

The Preamble of Act CCIII of 2011 on the election of Members of Parliament in Hungary stipulates that ‘Hungarian citizens living beyond the borders of Hungary shall be a part of the political community.’<sup>35</sup> Previously, only external citizens maintaining a permanent residence in Hungary could vote and thus participate in the formation of Hungarian politics. Amendments to the Act on Electoral Procedure adopted in 2013 introduced the right to vote for citizens living abroad and lacking an in-country residence, however, only for the proportional part of the elections. External citizens may vote for the party lists after enrollment in the register of foreign voters.<sup>36</sup> Out of the 575,000 dual citizens approximately 230.000 applied for registration,<sup>37</sup> and 195.338 were registered as external voters.<sup>38</sup> About 100.000 of the applications came from Romania, and almost 30.000 from Serbia. Eventually 128.000 eligible votes were cast, almost half of them by dual citizens living in Romania.<sup>39</sup> In the new Hungarian electoral system, which follows the anglo-saxon model, Hungarian citizens vote in 106 constituencies with simple majority. The mandates originating from the foreign votes cannot play an operative role, the foreign voters might have an influence on 1 or 2 of the 199 mandates of the Hungarian Parliament, thus, their impact on the national election outcomes remains restricted. It is rather ‘a voice’, than a decisive political force. One of the most significant implications of the new regulation is its effect on Hungarian parties, which now have to take into serious consideration the interests of external citizens in their campaigns and politics.<sup>40</sup>

It is important to note, however, that in contrast to external citizens with permanent residence in Hungary, who are entitled to two votes at the parliamentary elections, non-resident voters may only vote for one party list. Some scholars have proposed in legal lit-

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amending Regulation (EEC) No. 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ 2004 L 158/77.

35 See the Preamble of Act CCIII of 2011 on the elections of Members of Parliament of Hungary.

36 Art. 12(3) of Act XXXVI of 2013 on Electoral Procedure.

37 Cf. [www.valasztas.hu/hu/ogyv2014/766/766\\_5\\_1.html](http://www.valasztas.hu/hu/ogyv2014/766/766_5_1.html).

38 Cf. [www.valasztas.hu/hu/ogyv2014/766/766\\_5\\_2.html](http://www.valasztas.hu/hu/ogyv2014/766/766_5_2.html).

39 Cf. [www.valasztas.hu/dyn/pv14/szavossz/hu/levjkw.html](http://www.valasztas.hu/dyn/pv14/szavossz/hu/levjkw.html).

40 Nemzetpolitikai Kutatóintézet (NPKI): ‘Állampolgárság, szavazás’ [‘Citizenship, voting’], available at [http://bgazrt.hu/\\_files/NPKI/allampolgarsag\\_valasztas\\_elemzes\\_Z03.pdf](http://bgazrt.hu/_files/NPKI/allampolgarsag_valasztas_elemzes_Z03.pdf) (2014), p. 2.



erature<sup>41</sup> that the current Hungarian regulation contradicts the principle of equality of voting rights as some of the voters have two votes, while others possess only one vote. The above distinction could have been avoided by the creation of new constituencies for external citizens, as we can see *inter alia* in Croatia, Portugal, France and Italy.<sup>42</sup> Nevertheless, the legislator has the right to establish further conditions and restrictions relating to the voting right of external citizens in accordance with Section 4 of Article XXIII of the Fundamental Law. This provision states that '[a] cardinal Act may provide that the right to vote and to be voted for, or its completeness shall be subject to residence in Hungary, and the eligibility to be voted for shall be subject to additional criteria.' In light of this provision, the current regulation is difficult to be challenged.<sup>43</sup> Even the Venice Commission did not formulate a critique of this distinction in its opinion on the Hungarian Electoral Procedure Act. According to the standpoint of the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights, the limitation of the voting rights of non-resident external voters 'to the proportional part of the elections seems justified on the ground of technical conditions to their full enfranchisement.'<sup>44</sup> The joint opinion observes that the new regulation can be deemed a good practice as it extends voting rights to external citizens, thereby increasing the universality of suffrage in line with the Venice Commission's Code of Good Practice in Electoral Matters which asserts that the right to vote may be accorded to citizens residing abroad.<sup>45</sup>

## 5.7 CONCLUSION

Central and Eastern European societies regarded EU citizenship as a means of solving minority problems stemming from the division of territorial and ethnic borders. However, this expectation was fulfilled only partially. EU citizenship facilitated merely the free

41 According to the analysis of András Jakab, the fact that non-resident citizens can only vote to party lists on the Hungarian parliamentary elections may contradict the principle of equality of voting rights enshrined in Section B of Art. 25 of the International Covenant on Civil and Political Rights and Art. 3 of Protocol 1 of the European Convention on Human Rights. See A. Jakab: 'A külföldön élő magyar állampolgárok választójoga egyenlőségének kérdése a választási törvény koncepciójában' ['The issue of the equality of voting rights of Hungarian citizens living abroad in the concept of the Act on Electoral Procedure'], *Pázmány Law Working Papers*, No. 38, 2011, p. 3.

42 International IDEA (Ed.), *Voting from Abroad: The International IDEA Handbook*, Stockholm, International IDEA, 2007, p. 28.

43 L. Trócsányi, 'A külföldön élők szavazati jogáról' ['On the voting rights of citizens living abroad'], 4 *Pro publico bono* (2013), p. 91.

44 European Commission for Democracy Through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Draft Joint Opinion on the Act on the Elections of Members of Parliament of Hungary, Opinion No. 662/2012, CDL-AD(2012)012, Strasbourg, 18 June 2012, pp. 11-12.

45 Venice Commission, Code of Good Practice in Electoral Matters, CDL-AD(2002)023rev-e, Venice, 18-19 October 2002, I. 1.1 c. v.

movement of individuals, it provided safeguards for the enjoyment of human rights, however, the fundamental problem of national minorities was left unresolved. It is for this reason that the acceptance of dual citizenship was highly anticipated in this region. Dual citizenship was perceived a symbolic gesture, which nevertheless has to be filled with real content. The most important consequence of the acceptance of dual citizenship in Hungary is the strengthening of the specific relationship between Hungarian minority groups and their kin-state: the legal bond of citizenship enhances their identity and provides protection against assimilation. The symbolic relation with Hungarians living abroad thus became legally acknowledged.<sup>46</sup>

The neighbouring countries and some international organisations expressed concerns regarding the recent changes in Hungarian Citizenship Law and the Electoral Procedure Act granting citizenship and the right to vote to Hungarian nationals living abroad. However, the initial fears seem to have faded, since Hungary followed a legislation path that has been paved by numerous European countries decades ago. Inspired by the Latin American kin-state model, these countries – including France, Italy, Portugal, Croatia and Romania – also allow for their external nationals to apply for citizenship and ensure the right to vote to citizens abroad upon certain formal conditions, such as previous registration.<sup>47</sup>

Dual integration of kin-minority groups may invoke the possibility of the weakening of Hungarian national groups' connections with their titular state and local communities due to the close ties maintained with the Hungarian kin-state. However, the practice shows that applying for citizenship, taking the citizenship oath and voting at the elections all have a mobilising force which support community-building and striving for local goals.<sup>48</sup> The main objective of Hungarian national policy and the extension of citizenship is the promotion and fostering of self-organisation and community development of external Hungarian groups.<sup>49</sup> The unexpectedly high number of applications for citizenship and for registration to vote prove that the more inclusive citizenship policy exercised by the Hungarian government in recent years succeeded in strengthening the national identity and the cohesion of Hungarian nationals living abroad.

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46 Á. Antal and S. Tamás, 'A kettős állampolgárság következményei és hatásai a külhoni magyar nemzetközösségek helyzetére és megítélésére' ['The consequences and effects of dual citizenship on the situation and judgement of Hungarian national communities living abroad'], 18(34) *Magyar Kisebbség* (2013), pp. 159-160.

47 Trócsányi (2013), p. 87.

48 Nemzetpolitikai Kutatóintézet (NPKI): 'Állampolgárság, szavazás' ['Citizenship, voting'], available at [http://bgazrt.hu/\\_files/NPKI/allampolgarsag\\_valasztas\\_elemzes\\_Z03.pdf](http://bgazrt.hu/_files/NPKI/allampolgarsag_valasztas_elemzes_Z03.pdf) (2014), p. 2.

49 *Ibid.*, p. 3.