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The Retributive Justice in Czechoslovakia after WWII and its Impact on Bilateral Relations between Slovakia and Hungary between 1993 and 2023

The Case of the “Beneš Decrees”¹

The topic of the article is the role of the so-called Beneš Decrees in the formation of bilateral relations between Slovakia and Hungary, as well as between Slovakia and the members of the local Hungarian minority after 1993. In addition to traditional actors, such as, according to Rogers Brubaker, members of national minorities, their “external homeland” and the country in which they live, these relations are also influenced by integration processes and the action of international institutions, nowadays especially the EU. The EU’s current position is that it regards the resolution of past issues as an internal matter for its member states or for bilateral resolution between individual states. The article points to the fact that although the joint action of Slovakia and Hungary in the EU and in the Visegrád Group has long contributed to the diminishing relevance of controversial issues of the common past, it is the integration processes that may contribute to their re-escalation in the short term. The differentiated expectations of EU membership also affect the quality of bilateral relations of its member states. The relevance of research on post-1993 Slovak–Hungarian relations, based primarily on legal norms but also on statements by representatives of the political elites of both Slovakia and Hungary, has an increasing relevance in the context of the forthcoming further enlargement of the EU to include the states of Southeastern Europe and the former USSR.

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INTRODUCTION

After the dissolution of the Czechoslovak Republic in 1939 and the establishment of the Czechoslovak government-in-exile in London in June 1940, which was part of the so-called Provisional State System, President Edvard Beneš gained the ability to issue decrees with the force of law. However, he could issue them only on the government's proposal and after a hearing of the Council of State. Their validity was limited by the existence of the Provisional State, i.e. until it was possible to convene the National Assembly as the supreme legislature. For this reason, the term "Beneš Decrees" is inaccurate, and does not do justice to the nature of the documents adopted, reducing them to the decision of one man alone. They became part of the Czechoslovak legal order, as well as the legal order of the successor states of the former Czechoslovakia, as a result of the so-called rati habitation by *Constitutional Act No 57/1946 Coll.* Since they met with no opposition in the then Constituent National Assembly, they can be regarded as an object of consensus and one of the key elements of the legitimacy of the regime that established itself in Czechoslovakia after 1945.

It is possible to use the term "Beneš Decrees" only as a conventional expression. Their purpose was to restore the state sovereignty of Czechoslovakia, but also to punish those who committed aggression against Czechoslovakia or supported, approved and cooperated with hostile powers.² Thus, the "Beneš Decrees" should be understood as acts of transitional justice, as an act of ending the regimes that were in force on the territory of the Czechoslovak Republic after 1938, but also as acts establishing the legitimacy of the post-1945 Czechoslovak Republic's organisation. It is important to stress, the terminology used in the "Beneš Decrees", such as "Germans, Hungarians, traitors and collaborators" or "Germans, Hungarians and other Enemies of the State" express the collective guilt of the whole group of the Germans and the Hungarians without exception.

Transitional justice comprises criminal justice, truth-telling, reparation and institutional reform – four core elements in a "comprehensive" approach.³

² BEŇA 2002: 15–18.

³ GISSEL 2022: 859.

However, the above postulates are valid especially in conditions when the change of the regime, power relations had a consensual, negotiated character based on the pact between the “old” and “new” elites. This was not the case in 1945, when the new arrangement of the Central European region was shaped on the basis of the results of the war. Not only the nature of interstate relations between Czechoslovakia and Hungary, but also the relations between the Czechoslovak state representing the majority population and some of its minorities had the character of a relationship between winners and losers. In such cases, the notion of “truth-telling” should be interpreted as the formulation of an official interpretation of the events of the previous period, not as the result of negotiation and political dialogue.

The so-called Beneš Decrees included legal norms regulating criminal sanctions of an individual and collective nature, property sanctions in the form of confiscations, expatriation (deprivation of citizenship) and transfer of population. The principle of collective guilt was applied on an ethnic basis to the population of German and Hungarian nationality. In the present paper, “nationality” is understood in an ethnic sense, not as citizenship. This term was used by the Czechoslovak legislation after 1918 to refer to national minorities and had a similar meaning to that used in the Hungarian Nationalities Act of 1868. In addition to the aforementioned “Beneš Decrees”, the Slovak National Council’s⁴ decrees also represented acts of transitional justice. In case of members of the Hungarian minority, in 1945, the property sanctions applied primarily to the so-called “anyás”, i.e. persons who did not have Czechoslovak citizenship on 1 November 1938, i.e. the day before the signing of the Vienna Award, and whose property was confiscated. Those persons of Hungarian nationality who had Czechoslovak citizenship before the Vienna Award had their property confiscated if it exceeded an area of 50 hectares and up to that area.⁵ However, the provisions of Decree No 104/1945 Collection of Orders

⁴ The Slovak National Council was the legislative body in Slovakia, when it was a part of Czechoslovakia (1944–1992). Since 1993, the name of the supreme legislative body in Slovakia is *National Council of the Slovak Republic*.

⁵ BEŇA 2002: 72–78.

of the Slovak National Council (paragraph 1) were soon repealed and replaced by Decree No 64/1946 Collection of Orders of the Slovak National Council on 14 May 1946, according to which the agrarian real estate of every person of German and Hungarian nationality was confiscated immediately and without compensation, regardless to their citizenship. In this case, there was no 50 hectares restriction in case of Hungarians, which means all German and Hungarian agricultural property was confiscated. In the immediate aftermath of the liberation, the principle of collective guilt was established after the adoption of the so-called *Košice Government Programme* in April 1945. This government was established by the National Front of Czechs and Slovaks – a bloc of communist and non-communist forces that participated in the anti-fascist resistance. The National Front was also the only institutional framework within which political parties could legally operate. The principle of the presumption of guilt was applied to members of the German and Hungarian minorities. According to the Government Programme, confirmation of citizenship and possible return to Czechoslovakia was necessary, even in case of those who had Czechoslovak citizenship before the Munich Agreement of 1938 and

“already before Munich, actively fought against Henlein and Hungarian irredentist parties and for the Czechoslovak Republic, who after Munich and after 15 March were persecuted by the German and Hungarian state authorities for their resistance and struggle against the local regime and for their loyalty to the Czechoslovak Republic and thrown into prisons and concentration camps or who had to flee abroad from the German and Hungarian terror and taken part in the active struggle for the restoration of Czechoslovakia” (Article VIII).⁶

Other inhabitants of German and Hungarian ethnicity lost their citizenship and could again opt for Czechoslovakia. The Government Programme stressed their applications being considered individually, however, the Czechoslovak post-war governments did not intend to elaborate such procedures. However, it should be noted that the “Beneš Decrees” were not only about the collective

⁶ Košice Government Programme 1945.

punishment of communities accused of participating in armed aggression against Czechoslovakia in 1938–1939 or during the Second World War, but also about the implementation of the concept of ethnically pure states, with as few members of ethnic minorities as possible.

President Edvard Beneš assumed that the victorious powers would agree to the expulsion of the Hungarian minority. The Potsdam Declaration of 2 August 1945, however, regulated only the removal of Germans from Poland, Czechoslovakia and Hungary, while the question of the status of ethnic Hungarians living in Slovakia was left to a bilateral agreement between Czechoslovakia and Hungary. The Peace Treaty with Hungary of 10 February 1947, to which Czechoslovakia was also a signatory, saw the status of ethnic Hungarians in Czechoslovakia resolved in a similar vein. Since this did not happen, the next steps were to try to force their assimilation through the so-called re-Slovakisation, or “population exchange” on the basis of the bilateral Czechoslovak–Hungarian agreement of 27 February 1946, taking place between 1946 and 1949. These measures did not bring the expected result. The situation in the period 1945–1948 was downright absurd. The exact number of citizens affected by the repressive legislation on the basis of ethnicity is difficult to identify, as the first post-war census was not taken until September–October 1946, i.e. at the time of the displacement of the German population and the “population exchange” between Czechoslovakia and Hungary. Moreover, the implementation of the census was in the hands of the Commission for Nutrition and Supply and its probable purpose was to collect socio-economic data, as evidenced by its name – “conscription of ration recipients”, while it did not collect data on the ethnicity of the population.⁷ Since in 1930 members of the Hungarian minority accounted for 17% of the total population of Slovakia and Germans accounted for 4% of the total population,⁸ even after taking into account the effects of the “population exchange” and the expulsion of Germans, this could still have been 10–15% of the population in 1948. There

⁷ ŠPROCHA–TIŠLIAR 2022: 315–316.

⁸ ŠPROCHA–MAJO 2016: 50.

were no cultural and educational institutions and no schools with Hungarian as the language of instruction. The situation of the Hungarian minority changed only at the turn of 1948–1949, when citizens of Hungarian nationality regained Czechoslovak citizenship and had some of their land, but not other property, returned to them. However, the process of land restitution already fell within the period of forcible collectivisation of agriculture, therefore it was not actually completed.⁹

This paper seeks to answer the question of the role of the so-called Beneš Decrees in contemporary Slovak–Hungarian relations. To what extent do they influence their character? The question posed a problem not only at the level of bilateral relations between Czechoslovakia and Hungary, but also within the national framework. The classical research framework for the study of minority issues is a “triadic nexus” by Rogers Brubaker involving “three distinct and mutually antagonistic nationalisms”, which includes the members of the minority community, the country in which they live (i.e. Czechoslovakia and after 1993 the Slovak Republic), and the so-called external homeland (kin-state), i.e. in this case Hungary.¹⁰ After 1989, its new component became the international organisations, such as the Council of Europe, the Organization for Security and Cooperation in Europe and the European Union. Therefore, especially in Central and Eastern Europe, it is appropriate to add another vertex to the original “triadic nexus” and speak of a quadratic relationship.¹¹ The issue of the “Beneš Decrees” will thus be studied in the context of interactions at the national, Slovak, bilateral (Czecho) Slovak–Hungarian level, but also at the level of regional cooperation within the Visegrád Group, and at the level of international organisations such as the Council of Europe and the European Union.

⁹ ŠUTAJ 1993: 136–137, 151–152.

¹⁰ BRUBAKER 1996: 4–6.

¹¹ SMITH 2002.

Both Slovakia and Hungary define their relations on the basis of bilateral documents, as well as on the basis of their shared membership in the EU and NATO, as allied and even “friendly”. Their post-1989 and post-1993 cooperation has a multidimensional character, characterised by intensive trade and the building of border infrastructure. At the same time, both states participate together with the Czech Republic and Poland in the activities of the Visegrád Group, however, especially in the 1990s, but also in the later period, the overall atmosphere in their relations was marked by tension and mutual distrust, which was instrumentalised by the political elites in both states in mobilising the electorate. The relations between Slovakia and Hungary are an example that the mere fact of EU and NATO membership does not diminish the importance of relations at the bilateral level. European integration has largely been examined in the existing literature from an institutional perspective, but as Frank Schimmelfenig and Thomas Winzen point out, European integration is accompanied not only by homogenising but also differentiating practices, in which concerns about national sovereignty and identity play a significant role.¹² These issues represent the political and value aspects of integration. Research on the issue of “differentiated integration” is primarily examining relations at the level of relations between the nation state and the EU institutions. However, the different images of the world, as well as different ideas about the roles and future of European integration, also have an impact on the relations between individual EU Member States. In the context of EU integration, it can be assumed that it should also include the creation of a favourable atmosphere for the resolution of conflicts in bilateral relations, in favour of the formation of a consciousness of mutual solidarity and common interests. The aim of this paper is to identify to what extent this assumption can be confirmed in the case of bilateral relations between Slovakia and Hungary.

¹² SCHIMMELFENNIG–WINZEN 2014.

THE ROLE OF THE “BENEŠ DECREES” IN THE STATE FORMATION OF THE CZECHOSLOVAK SOCIALIST REPUBLIC

The principle of collective guilt applied to members of the Hungarian and German minorities remained present in Czechoslovak political and legal practice even after the establishment of the communist monopoly of power in February 1948. Although the civil rights of the members of the Hungarian minority were restored at the end of 1949, they regained their Czechoslovak citizenship, and, to a limited extent, they had their property restituted, the new Czechoslovak *Constitution of 9 May* retained its anti-minority stance.¹³ The diction of its preamble was primarily anti-German and anti-capitalist (“When then both our nations were threatened with destruction from the new imperialist expansion in the criminal form of German Nazism, here again – as once in the Hussite Revolution the landed gentry – now also betrayed by the new ruling class, the bourgeoisie.”). The preamble emphasised that in 1938 the external enemy was aided by “the descendants of foreign colonists, settled among us and enjoying all democratic rights equally with us under our Constitution”. The new state was declared to be Slavic, but at the same time “free from all hostile elements”. While the new constitution formally guaranteed political and civil rights, it made no mention of the existence of national minorities. Nevertheless, members of the Polish, Ukrainian and Hungarian minorities were granted certain rights in language use, national culture and education at the primary and secondary school level.

The situation in the area of legal recognition changed only after 1960, when the new *Constitution of the Czechoslovak Socialist Republic* was adopted,¹⁴ which legally recognised the existence of Polish, Hungarian and Ukrainian nationalities (Article 25). It did not contain direct references to the retributive decrees of the period immediately after the Second World War, nor did it explicitly define any ethnic communities as hostile. Despite the existence of a treaty base with other Soviet bloc states, the principle that nationality

¹³ Act No 150/1948 Coll.

¹⁴ Act No 100/1960 Coll.

policy remained the exclusive domain of each country had been applied.¹⁵ Thus, minorities continued to be perceived as a potential source of threat. Even though the 1960s did not represent a significant encroachment on minority rights, there was an absence of formal legal regulation of the issue. The actual level of protection of minorities by the state was based on political decisions. In addition, these decisions were only to a limited extent consulted with representatives of minority communities. National minorities, called by Czechoslovak legal documents “nationalities” did not act as political actors; attempts by state-recognised representations of their cultural associations to act as their political representation were suppressed. The fundamental principle was the reduction of national differences to questions of language use in various spheres of public life. This principle, which in the USSR was referred to as the “policy of rapprochement and unification of nationalities”, was the basis of the Constitution of the Czechoslovak Socialist Republic and the practices of its ethnic policies in the period between 1960 and 1968.¹⁶

Controversial issues of the recent past in national relations, including political persecution after the Second World War, have remained a taboo topic. The situation changed only as a result of the political detente in the spring of 1968, when on 12 March, the Central Committee of the Csemadok (Czechoslovak Hungarian Workers’ Cultural Association), a single Hungarian, ethnic-based association in the Communist Czechoslovakia, focused predominantly on the cultural needs of Hungarian minority members, issued a statement demanding, in addition to the territorial reorganisation of districts and regions in southern Slovakia, the adoption of collective rights for minorities, bilingual signs, proportional representation in public administration and state bodies, and the condemnation of collective guilt and the crackdown on Hungarians after the Second World War.¹⁷ In parallel with the preparation of the federal arrangement of the previously unitary Czechoslovakia, work began on the drafting of a constitutional law on the status of nationalities. However, this issue

¹⁵ ŠUTAJ 2015: 118–119, 126–128.

¹⁶ MARUŠIAK 1999.

¹⁷ ŠUTAJ 2009: 200.

took a back seat in the context of the forthcoming federalisation. The relevant constitutional law¹⁸ was approved on 27 October 1968,¹⁹ but the advent of the so-called “Normalisation” regime, the essence of which was the restoration of central control of society by the Communist Party of Czechoslovakia, was not followed by the drafting of lower legal norms that would guarantee the implementation of the relevant provisions. At the same time, the end of the brief period of liberalisation brought an end to the discussion of national relations at the official level for the next two decades.²⁰

However, the debate about the period 1945–1948 resonated in the environment of the independent Hungarian intelligentsia. The book by Kálmán Janics, a physician and minority activist, *Roky bez domoviny. Maďarská menšina na Slovensku po druhej svetovej vojne 1945–1948* [Years Without a Homeland. The Hungarian Minority in Slovakia after the Second World War 1945–1948],²¹ who was dismissed from the leadership of Csemadok at the beginning of the 1970s precisely because his articles dealt with the subject, contributed to this.²² However, the demand for a revision of the so-called Beneš Decrees was not itself a priority of the unofficial structures in the Hungarian community. Not much reference to it was present in their documents, whether in the period of dissent or in the period immediately during the fall of the communist regime in November–December 1989. The reason for this was their controversial nature, which could provoke conflicts between the Slovak and Hungarian parts of the democratic opposition in Slovakia and, of course, could also create a pretext for the criminalisation of Hungarian minority activists. On the other hand, the unresolved issues of the past constituted an obstacle to dialogue at the level of the representatives of the Slovak and Hungarian anti-communist exile.²³

¹⁸ Act No 144/1968 Coll.

¹⁹ ŠUTAJOVÁ 2019.

²⁰ MARUŠIAK 2008; 2015.

²¹ JANICS 1994.

²² CSÁKY 2012.

²³ MARUŠIAK 2015.

SLOVAK–HUNGARIAN RELATIONS AFTER 1989 –
BETWEEN ALLIANCE AND RIVALRY

The issue of the status of minorities, including conflicting issues from the past such as the Beneš Decrees, became part of the political agenda almost immediately after 1989. In fact, concerns about overt territorial revisionism disappeared, but instead the practices, called by some authors, e.g. Michael Stewart, Hungary's "soft revisionism" emerged,²⁴ the essence of which is to build institutional links between the Hungarian state and members of Hungarian minorities in neighbouring states. These practices can be defined as discursive, which include, for example, the statements by the first freely elected Hungarian Prime Minister that he considers himself, "in spirit [...] to be the Prime Minister of 15 million Hungarians",²⁵ i.e. including ethnic Hungarians living in the neighboring states, and hard institutional relations in the form of dual citizenship, or the inclusion of political representatives of Hungarian minorities in neighbouring states in Hungarian state bodies, as exemplified by the establishment of the Carpathian Basin Forum of Deputies. At the same time, Slovakia and Hungary are united by common strategic priorities in the field of foreign policy, namely EU and NATO membership, as well as multidimensional cooperation within the V4.

The issue of the "Beneš Decrees" was also revived in connection with internal political issues, when, for example, during the existence of the federal Czechoslovakia, the date of 25 February 1948, i.e. the date of the establishment of the monopoly power of the Communist Party of Czechoslovakia, was established by consensus of the majority of the political forces as the limit for judicial and extrajudicial rehabilitation, including the property restitution. While in case of the descendants of the Sudeten and Carpathian Germans, the majority of the members of these communities were small groups of the population as a result of their expulsion, this regulation limited the restitution claims of the members of the Hungarian minority who remained in Slovakia. The only exception was

²⁴ STEWART 2003.

²⁵ WATERBURY 2010: 5.

Act No 282/1993 Coll. on the reconciliation of property losses to churches for the restitution of church property and property of Jewish religious communities, who were dispossessed after 1938 as a result of racial persecution.²⁶

This example also shows that the issue of the “Beneš Decrees” is not only about problematic property claims but stems from the different ways in which Slovakia and Hungary perceive their past. While for Hungary the adoption of the Treaty of Trianon in 1920 as a national tragedy remains a key point in modern history,²⁷ Slovakia considers the 29th of August the anniversary of the 1944 anti-fascist uprising, but also the day of the founding of the Czechoslovak Republic on 28 October 1918 remains the symbolic date of the “beginning” of its modern history. The status of a national holiday is also given to 8 May as the Victory over Fascism Day, which is a way for the political elites of contemporary Slovakia to distance themselves from the Slovak state in 1939–1945. Different historical narratives are also an obstacle to finding points of convergence in the interpretation of the common past.

Especially the period before the accession to the EU was marked by rivalry between the two countries and Hungary’s attempts to raise the issue of the status of the Hungarian minority in Slovakia in the international fora. This was also manifested by considerations about the possible blocking of the Slovak Republic’s accession to the Council of Europe in 1993. Some issues related to the status of the Hungarian minority were the subject of criticism of Slovakia by Hungary and the Hungarian minority representation, but some of the more radical Hungarian politicians also raised the issue of the revision of the so-called Beneš Decrees.²⁸

However, the issues related to the so-called Beneš Decrees have fallen among the second-range questions. The priority agenda in Slovak–Hungarian relations became the issues of cooperation in connection with the integration of both states into the European or Euro-Atlantic structures, as well as current problems. At the interstate level, these were, for example, issues related to

²⁶ Benešove dekréty a Slovensko 2002.

²⁷ SADECKI 2020.

²⁸ LEŠKO 1993: 16–17; PÁSTOR 2011: 145.

the bilateral Slovak–Hungarian interstate dispute over the construction of a hydroelectric dam on the Danube, while at the national level, the disputes were mainly about the linguistic rights of minorities. After 1993, a number of laws were adopted allowing bilingual designation of towns and villages as well as the writing of names and surnames in minority languages. However, the Slovak side continued to refuse recognition of collective minority rights, which was raised by Hungary, but also by some representatives of the Hungarian minority in Slovakia.

On the other hand, the atmosphere in relations between the Hungarian minority and the majority population was exacerbated by the adoption of the 1995 Act on the State Language of the Slovak Republic, which did not regulate the status and possibilities of using minority languages. However, unresolved issues from the past did not prevent Slovakia and Hungary from adjusting their bilateral relations with the adoption of the Treaty on Good Neighbourliness and Friendly Cooperation between the Slovak Republic and the Republic of Hungary in March 1995.²⁹ Thus, both sides gave priority to cooperation on pragmatic issues, while those issues that could divide them fell into the background, although they did not disappear from the daily agenda and had a great influence on the overall atmosphere of mutual relations. At the same time, the political representation of both Slovakia and the Czech Republic considered the issue of the “Beneš Decrees” a proxy problem in connection with the disputes of most Central European states with Austria, which rejects the use of nuclear energy, or the dispute between Slovakia and Hungary regarding the completion of the Gabčíkovo–Nagymaros dam and hydroelectric power station.³⁰

The sensitivity of the topic of the so-called Beneš Decrees is also confirmed by the fact that discussion of them was not possible even during the political representation of the Hungarian community in Slovakia in the government coalition in Slovakia in 1998–2006,³¹ respectively in the governments of

²⁹ PÁSTOR 2011: 162.

³⁰ KMEŤ 2005: 436.

³¹ HAMBERGER 2008: 118.

Iveta Radičová (2010–2012) and Robert Fico (2016–2020), when the Slovak–Hungarian party Most–Híd was a part of them. Once again, the issue also gained international importance in the period immediately preceding the accession of both Slovakia and Hungary to the EU. At the time, Hungary preferred a competitive approach towards the other states in the region, with its leaders believing that cooperation with other states could be an obstacle to rapid integration.

This was helped by the warnings of then European Commissioner for Enlargement Gunter Verheugen in 2001 that if some candidate state was ready to join but for Poland, the EU will not wait for Poland. In that period, alternatives were raised of a “small enlargement” of the EU by a few states, as opposed to the alternative that was put forward at the end of 2002, when only the accession of Bulgaria and Romania among the candidate states was postponed. However, German officials have corrected Verheugen’s statement. Then Hungarian Prime Minister Viktor Orbán raised the issue of “waiting for Poland?” with which he had success, for example, with French President Jacques Chirac. This approach on the part of some EU Member States has contributed to weakening the cooperation of the candidate countries and to strengthening their individual, even competitive, approach during the pre-accession negotiations. Hungary relied on a potential coalition with Austria, where a coalition of the ÖVP and FPÖ was in power at the time and the CDU–CSU was expected to win the German parliamentary elections. One of the consequences was the raising of controversial issues that could favour Hungary over other EU countries. Cooperation within the V4, which to a large extent was also about coordinating pre-accession negotiations, thus became redundant for Hungary from this perspective. Therefore, Viktor Orbán unexpectedly attacked his three Visegrád partners at once in February 2002 at the European Parliament. “It is now expected that 10 candidate countries will join the EU at the same time in 2004. But if serious problems were to emerge in any of them, the others should not wait for it.” The MEPs said he was clearly referring to Poland, as Poland was the only country that was so important in the eyes of the current EU Member States that its unpreparedness could

cause enlargement to be delayed. At the same time, in the same speech, Viktor Orbán unexpectedly joined Austria in demanding that the Czech Republic and Slovakia annul the post-war decrees of Czechoslovak President Edvard Beneš. In response to an interpellation by German MEP Jürgen Schröder concerning the Czech Republic's accession to the EU, Orbán described them as laws incompatible with European law: "It is therefore very difficult for me to imagine that a country could join the Union maintaining such special laws that differ from Union legislation. We expect these decrees to be deleted from the legislation of the Czech Republic and Slovakia."³²

The reaction of the Czech Republic, Slovakia, but also Poland, which rejected the revision of the Beneš Decrees, especially after the CDU–CSU candidate for Chancellor of Germany Edmund Stoiber expressed the demand for the abolition of the so-called Bierut Decrees, caused the old member states to reconsider their approach, and they sent a clear signal that they are interested in the admission of all ten candidate states.³³ Viktor Orbán's initiative was rejected at the level of EU leaders and at the same time resulted in a crisis of Visegrád cooperation, which was only overcome in 2003. The question referred to above also concerned, explicitly or implicitly, the so-called AVNOJ decrees – i.e. Slovenia and Croatia. The decrees issued by the AVNOJ (Anti-Fascist Council for the National Liberation of Yugoslavia), a provisional revolutionary government representing the pro-communist resistance against the German, Italian and Bulgarian occupation of Yugoslavia, also applied the principle of collective guilt, especially against the German and Italian minorities in the country. On the other hand, they did not mention the question of the "Stalin's decrees", i.e. the expulsion of the German population from the today's Kaliningrad region. At the same time, however, Viktor Orbán's speech showed that his aim was not to resolve controversial issues and real traumas from the past, but to instrumentalise the issues of the "Beneš Decrees" to achieve a more significant strategic objective; to make Hungary the country best prepared for EU membership, unlike its other partners and neighbours in the region.

³² MARUŠIAK 2005: 278–281.

³³ CORDELL–WOLFF 2005: 80.

The draft resolution on EU Enlargement in the European Parliament in June 2002 in the part affecting Slovakia did not contain any reference to what had come to be known as the “Beneš Decrees” issue, nor did it contain proposed alterations affecting the status of ethnic minorities, which had been discussed by the Foreign Affairs Committee of the European Parliament.³⁴ The resolution expressed the hope that if Slovakia kept up its current pace of preparation and negotiation for entry, it would become an EU member in the first wave of expansion. For Slovakia it was important that although the European Parliament challenged the country to improve the way in which the law on the use of minority languages was used in practice, the minority issue as a whole ceased to be a target of criticism from abroad.

While Slovak politicians on the one hand refused to countenance the annulment of the Beneš Decrees, on the other they did not wish to inflame the situation. When the Czech Parliament on 24 April 2002 approved a declaration on the unalterable nature of the decrees,³⁵ the head of the Slovak ruling coalition Party of Civic Understanding (SOP), Pavol Hamžík, proposed the same. His proposal drew support from the opposition Movement for Democratic Slovakia (HZDS) and the Slovak National Party (SNS), but other government parties were against it.³⁶ Slovakia and the Czech Republic thus took an identical position on the problem of the “Beneš Decrees”, considering them valid, but not effective anymore. In justifying their position in relation to these documents, both Slovakia and the Czech Republic argue the context of the Second World War and the events that immediately preceded it, i.e. the Munich Agreement of 1938 and the Vienna Award of 1938–1939, which conditioned the adoption of the “Beneš Decrees”. At the same time, the Ministry of Justice of the Slovak Republic stated that “the effectiveness of the Beneš Decrees ceased at the latest by Constitutional Act No 23/1991 Coll., which established the Charter of

³⁴ European Parliament 2002.

³⁵ KOPP et al. 2002.

³⁶ MARUŠIAK 2005: 284.

Fundamental Rights and Freedoms. In contrast, the validity of the Beneš Decrees continues to exist”.³⁷

“BENEŠ DECREES” AFTER THE EU ACCESSION

After 2002, the issue of the Beneš Decrees practically ceased to be a European policy issue and shifted more significantly to the domestic policy and bilateral agenda, despite the fact that this issue is periodically raised by Hungarian and, to some extent, German and Austrian representatives in the European Parliament. It revived again after 2006, when Slovak–Hungarian relations deteriorated both domestically and bilaterally after the rise of the Smer–SD-led coalition with the participation of the SNS and HZDS parties. In this situation, an ethnic cleavage was formed in Slovak politics on a number of issues, when ethnically Slovak and Hungarian parties stood against each other on fundamental issues – e.g. on the issue of international recognition of Kosovo, but also on the issue of the Beneš Decrees, which this time, however, was raised on the floor of the Slovak Parliament, by the proposal of the MPs of the Hungarian Coalition Party to compensate the citizens of the Slovak Republic of Hungarian nationality who had been taken to forced labour in the Czech borderlands. The compensation was to be both moral and financial. In response to this proposal, in 2007 the National Council of the Slovak Republic adopted *Resolution No 533/2007* on the immutability of the decrees,³⁸ whose wording was similar to the document adopted in 2002 by the Chamber of Deputies of the Parliament of the Czech Republic. Although the adoption of the document was initiated by members of the coalition of the Slovak National Party, after a parliamentary debate and the incorporation of amendments, it was also supported by members of those opposition parties that had worked together with the Hungarian Coalition Party in the government coalition between 1998 and 2006. On the one hand, the document rejects the principle of collective guilt, but at the same time it

³⁷ Benešove dekréty a Slovensko 2002.

³⁸ NCSR 2007a.

also rejects “attempts to question and revise laws, decrees, treaties and other post-war decisions of the Slovak and Czechoslovak authorities which would imply a change in the property and legal post-war arrangement”. It notes that the above decisions were taken as a result of the Second World War and the defeat of Nazism, and were based on the principles of international law represented by the conclusions of the Potsdam Conference in 1945. It also states that

“the post-war decisions of the representative bodies of the Czechoslovak Republic and the Slovak National Council are not the cause of discriminatory practice, and no new legal relations can arise today on the basis of them”, but that the legal and property relations created by those decisions are “unquestionable, inviolable and immutable”.³⁹

Practically without much response from the media and political elites, there was an exchange of letters between the representatives of the Slovak Bishops' Conference and the Hungarian Bishops' Conference in June 2006, inspired by the gesture of the Polish bishops towards the German bishops in 1965, in which they drew attention to the mutual wrongs of the past. “Our memory preserves the many wounds we have inflicted on each other”, the Slovak bishops' letter states, while the Hungarian bishops' letter says: “We recall with special pain those cases when Hungarians have harmed Slovaks or Slovak communities.” Both letters contained the wording, taken verbatim from the letter as mentioned earlier of the reconciliation Pastoral Letter of the Polish Bishops to their German Brothers: “We forgive and ask for forgiveness!”⁴⁰

Alongside this, there were also proposals for a political declaration that would bring a moral closure to their conflicts. The proposals so far have failed. As a rule, they were made unilaterally, not the result of a joint proposal that could not be interpreted by one side as a victory at the expense of the other. One such example was the draft declaration submitted by the Hungarian Coalition Party “Together and Sincerely” to the Speakers of the Parliaments of both

³⁹ NCSR 2007a.

⁴⁰ List Episkopatu Polski 1965; Biskupi Slovenska a Mađarska 2006.

countries in September 2007. The proposal had the support of some members of the Christian Democratic Movement (KDH). Although it was not made public in advance, the party leadership informed the media in advance of its content, including the proposed date for the adoption of the declaration, which was to be Europe Day 8 May 2008. The Hungarian Parliament should express regret for the *Magyarisation* of the Slovaks around the turn of the 19th and 20th centuries. In the context of Slovak–Hungarian relations, *Magyarisation* means intentional, state driven policy aimed to transform Hungary into the Hungarian (Magyar) nation state based on ethnic principles by the assimilation of non-Magyar ethnic group members. It should also be critical of the policy of the Hungarian Government after 1938, when Hungary incorporated the southern part of Slovakia, and of Hungarian participation in the invasion of Czechoslovakia by the armies of the Communist states in August 1968. In the Hungarian Coalition Party's (SMK) view, the Slovak party should express regret, for example, over the violation of the rights of Hungarians after 1918 or over the deportation of Hungarian minority citizens to the Czech parts after 1945, and the application of the principle of collective guilt, i.e. including the consequences of the “Beneš Decrees”.⁴¹ The way in which the proposal was presented provoked a negative reaction from the representatives of the Slovak Republic. It had not been discussed in advance with the Slovak and Hungarian sides. Therefore, the Minister of Foreign Affairs of the Slovak Republic, Ján Kubiš, declared that the proposal of the Hungarian Coalition Party was not aimed at reconciliation but was confrontational in nature.⁴²

As I mentioned earlier, the dispute over the “Beneš Decrees” was a concomitant of the growing tension in Slovak–Hungarian relations, both bilaterally and domestically. This period began at the end of the first government of Ferenc Gyurcsány, when in April 2005 the issue of the revision of the “Beneš Decrees” was raised by the Hungarian State Secretary András Bárony, which resulted in the cancellation of the planned visit of the Slovak Prime Minister Mikuláš

⁴¹ ČTK 2007.

⁴² SITA 2007.

Dzurinda to Budapest. The Slovak–Hungarian dispute over the “Beneš Decrees” was “verbalised by various political actors in Hungary representing both parts of the ideological spectrum”, which, according to Tomáš Strážay, was “not only perceived very sensitively by the Slovak political elites; they are also a source of tension in Slovak–Hungarian bilateral relations and in the broader region of Central Europe”.⁴³ The Hungarian Status Law (The Act of Hungarians Living Abroad) 2001, regulating the principles of Hungary’s policy towards Hungarian minorities in neighbouring states, conceived as extra-territorial, presupposing direct material support of members of Hungarian minorities in neighbouring states by the Hungarian state and the issuance of relevant certificates (so-called ‘Certificate of Hungarian Nationality’ and ‘Certificate for Dependents of Persons of Hungarian Nationality’) issued by the Hungarian state on the territory of neighbouring states, considerations about the territorial autonomy of regions inhabited by members of the Hungarian minority, or the use of the term “Felvidék” by some representatives of the Hungarian community in southern Slovakia managed to integrate political forces in Slovakia from different, often contradictory, political camps.⁴⁴ In that period, an “ethnic cleavage” began to take shape in Slovakia, whose presence became more visible with the adoption of the Slovak parliamentary resolution on the status of the Serbian province of Kosovo in 2007. In this resolution, deputies of the National Council of the Slovak Republic refused to recognise Kosovo’s forthcoming unilateral declaration of independence.⁴⁵ This document, although seemingly unrelated to the case of the “Beneš Decrees”, also points to a key priority of the Slovak Republic’s foreign policy, which is the inviolability of the international order and borders established after the Second World War, as it referred to the principles of the UN Charter.

At the same time, since 2007, there have been indications of interest at the level of the Prime Ministers of Slovakia and Hungary for a dialogue on

⁴³ STRÁŽAY 2005: 56.

⁴⁴ ALBERTIE 2003: 1000; STEWART 2003; STRÁŽAY 2005.

⁴⁵ NCSR 2007b.

contentious issues at the level of historians through the implementation of the project of a common history textbook. On the Slovak side, however, the situation was complicated by the participation of the SNS in the government, whose nominee, Ján Mikolaj headed the education ministry. On the other hand, the work intensified after the Deputy Prime Minister of the Slovak Republic, Dušan Čaplovič assumed patronage over the project. In 2009, the Prime Ministers of the Slovak Republic and Hungary, Robert Fico and Gordon Bajnai, also supported the project. Despite the verbal support for the project from the political elites and despite the fact that work on the final editing of the joint Slovak–Hungarian historical texts began as early as 2011,⁴⁶ the publication was not published even until 2023.

The course of the disputes over the “politics of memory” between Slovakia and Hungary is characterised by little willingness on the part of both states to reconsider their previous positions, despite the cooperation of historians and the verbal declarations of the will of the representatives of the governments of both states to reach a common approach to resolving the disputed issues of the past. Political leaders are thus sending contradictory signals. The interest in resolving disputed issues from the past, presented in bilateral and multilateral forums, is accompanied by confrontational steps and statements and by raising contentious issues, e.g. in connection with the so-called “Beneš Decrees”. This process also takes place on the floor of international institutions, e.g. in the European Parliament, where they are also supported by some conservative MEPs from Germany and Austria.

CONCLUSIONS

The issue of the Beneš Decrees and unresolved issues from the past regularly recur in the discourse on Slovak–Hungarian relations at multilateral, bilateral

⁴⁶ ŠUTAJ 2014: 13–15.

and national levels. Both the Slovak and Hungarian sides missed the window of opportunity that was created after the political changes of 1989–1990. Some of the declarations from this period co-determined the nature of the bilateral relations of the states concerned with the later independent Slovakia. This is the case, for example, with the Slovak National Council's statement of February 1991 on the expulsion of Slovak Germans, which highlighted the role of the German minority in the development of Slovakia, and condemned the principle of collective guilt, applied in the expulsion after the Second World War also to "innocent hard-working people". "These German fellow citizens suffered for those who served Nazism on behalf of the German minority in Slovakia", the statement reads.⁴⁷ The symbolic power of commemorating the historical aspects of mutual relations was realised most of all by Prime Minister Ján Čarnogurský among the Slovak leaders of the time. In his speech at the meeting of the Carpatho-German Compatriot Association in Karlsruhe on 2 June 1991, he highlighted the moments that united Slovak and German societies, e.g. the participation of members of the German ethnic group in the development of the towns in the former Central Slovak ore mining area and in the Spiš region in the eastern part of Slovakia, and at the same time, he asked the representatives of the German compatriots for help in order to make Slovakia "for the first time in its history a fully-fledged part of Europe".⁴⁸ He also addressed a gesture of reconciliation to the citizens of the Czech Republic when he condemned the expulsion of Czech citizens in 1939: "The expulsion of the Czechs at a time when the Czech part of the state was collapsing under the onslaught of Germany is a black stain on Slovak history." He spoke these words on his own behalf, not on behalf of the Slovak Republic.⁴⁹

This condition has various causes. Unlike Germany, which derives its current identity from its distancing from the Nazi past and defines it as such also through broadly conceived policies of reconciliation towards neighbouring

⁴⁷ SNR 1991.

⁴⁸ ČARNOGURSKÝ 1997: 183–184.

⁴⁹ ČARNOGURSKÝ 1997: 190.

states, but also, for example, towards Israel and, most recently, towards Tanzania as a former German colony,⁵⁰ Hungary favours self-victimising narratives focusing its official memory politics on the wrongs caused by the Trianon Peace Treaty, especially when, after 2010, its designation as “Trianon peace dictate” became part of the rhetoric of Hungary’s official representatives.⁵¹ In case of the Hungarian minority in Slovakia, however, it must be acknowledged that this is a segment of the population that was affected not only by the repression associated with the establishment of the communist regime, but also by repression due to their ethnicity, with the Hungarian population in most cases regaining Slovak or Czechoslovak citizenship. The fact that they can only make restitution claims to a limited extent compared to the majority population is a source of feelings of injustice and discrimination.

The attempt to Europeanise the issue of reparations for post-war repression on an ethnic basis has failed because it would affect too many states and would ultimately destabilise the entire EU. The problem can therefore only be resolved at national or bilateral level. At the same time, moral compensation for the victims must, as in case of German–Czech or German–Polish relations, be the result of reciprocal gestures; Slovak–Hungarian reconciliation cannot be imposed unilaterally, as was the case, for example, with the SMK proposal in 2007. It also cannot be accompanied by a policy of “soft revisionism”. Both partners must be convinced that they are perceived by the other side as equal actors.

At the moment, the issue seems to be gradually slipping into the background. This is due not only to the change of generations, but also to the passage of time and the change of political paradigm. The parties that were active participants in ethnic polarisation in Slovakia have either been gradually marginalised, resulting in the absence of ethnic Hungarian parties in the Slovak parliament since 2020 (while the more radical component – SMK – has been out of the Slovak parliament since 2010), or they have weakened their anti-minority agenda, which is the case of the SNS.

⁵⁰ Deutsche Welle 2023.

⁵¹ E.g. see Hungarians mark the Day of National Unity 2012.

The issue of reconciliation, understood as the closure of conflicting chapters of common history, cannot be resolved on the basis of unilateral steps. On the other hand, raising these issues is necessarily confrontational, as the starting positions of the two states are contradictory. The thesis of the unbroken continuity of Hungarian statehood, as expressed also in the current Fundamental Law of Hungary (2011), is not in direct contradiction with the identity of the Slovak Republic, which claims the heritage of the Czechoslovak Republic, created in 1918. Czechoslovak statehood largely emerged in opposition to the Hungarian state, of which Slovakia was an integral part until 1918. This is one of the reasons why even contemporary Hungary considers the territorial changes after 1918, codified by the Trianon (1920) and Paris (1945) Peace Treaties, its territorial losses. However, this is only minimally present in Austria, which after 1918 rejected the thesis of continuity with the defunct Austro-Hungary.⁵² Therefore, the debate on the common past will most likely resemble a dialogue of the deaf for a long time to come.

At the same time, the example of Slovak-Hungarian relations after 1993 has shown that the presence of common interests, such as the integration of the two states into the EU before 2004, but also the close cooperation within the Visegrád Group in later years, contribute to improving the mutual perception of the two states only to a limited extent. The example of the “Beneš Decrees” shows that despite close cooperation within the EU, Slovakia and Hungary have not been able to close controversial issues from the past. In the long term, their importance is gradually declining in favour of solving more current problems, but they remain present on the agenda of bilateral relations, all the more so because in Slovakia’s case they are also an internal political problem. The events of 2001–2002 and 2006–2007 also suggest that their importance may even increase in moments of crisis and, despite the identical foreign policy orientations of both states, may significantly damage the atmosphere in bilateral cooperation.

⁵² VYHNÁNEK 2013: 55.

The example of Slovak–Hungarian relations shows that despite the declared common interests and strategic goals, each member state of the European Union brings its own perception of itself and its neighbours when it joins. This is subsequently reflected in the development of relations between EU Member States. The relevance of the Slovak–Hungarian experience and the study of the position of actors at national, sub-state and European level can be beneficial in the context of further EU enlargement to include the states of Southeastern Europe, Ukraine, Moldova and Georgia. Their complicated histories and relations with their neighbours will have an impact on the internal dynamics of the EU's development, but also on the shape of its foreign policy, as it happened after the 2004–2013 enlargement.

The period after 1989, but also the first decade of the Slovak Republic's and Hungary's membership of the EU, can be described as a missed opportunity. That period was characterised by a trend towards de-borderisation, i.e. the weakening of the importance of state borders while respecting the sovereignty and equality of individual actors. This created the right conditions for the closure of conflicting issues from the past, as evidenced, for example, by trends in the development of Czech–German or German–Polish relations, where controversial issues of the past are being put on the back burner. On the contrary, their confrontational raising has always created tendencies of re-borderisation, of questioning the need for mutual cooperation at bilateral and regional level. Currently, the dominant trends of re-borderisation of political discourse, reinforced by the aggression of the Russian Federation against Ukraine, as well as the tendencies to close the borders during the periodically recurring refugee crises since 2015, do not create the preconditions for a constructive discussion of the issues related to the past. Similarly to the German approach to these issues, the most appropriate way to close this conflict phase of Slovak–Hungarian relations, both at the national and bilateral level, will be to historicise it. That is to say, the moment when the issues cease to evoke the threat of demands for financial compensation and, even indirectly, implicitly, fears of a possible challenge to the existing state borders.

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