

Zgodovinski časopis

HISTORICAL REVIEW

ZČ | Ljubljana | 68 | 2014 | št. 1–2 (149) | str. 1–296

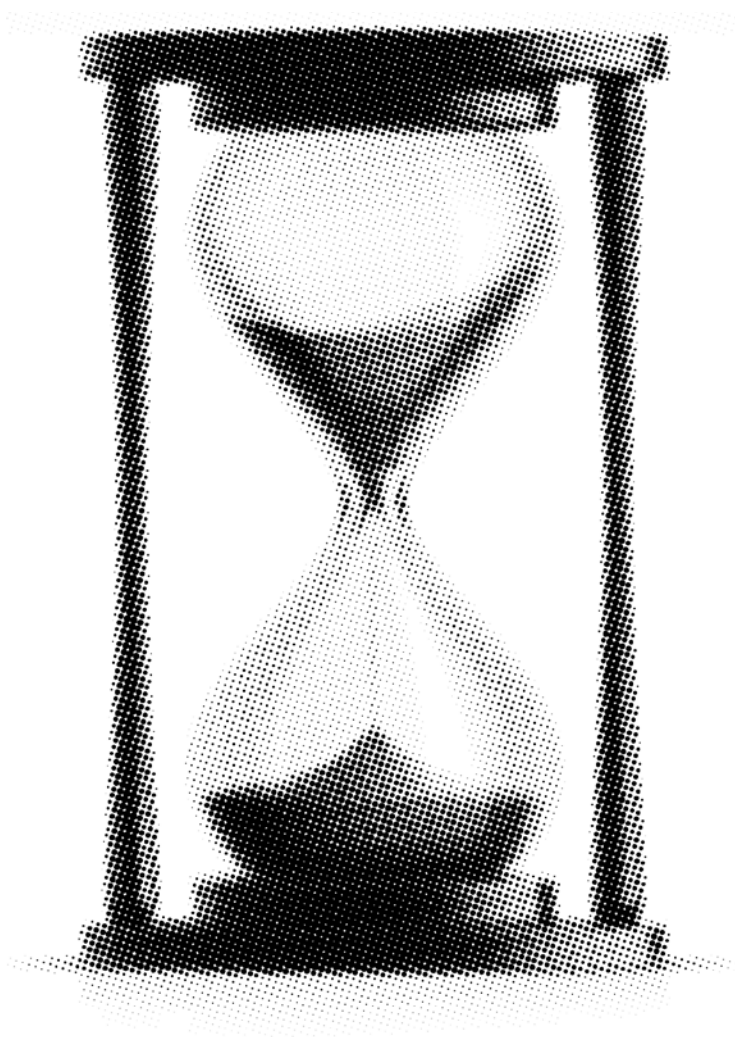


Peter Štih, *Integracija Karantancev in drugih alpskih Slovanov* • Boris Golec, *Epilog k Valvasorjevemu baronstvu, družini, smrti, grobu in zapuščini* • Stanislav Južnič, *Kobencli (ob tristoletnici rojstva Janeza Karla Filipa Kobencla v Ljubljani)* • Damir Globočnik, *Spomenik kralju Petru I. v Ljubljani* • Barbara Riman, *Slovenski franjenci u Hrvatskoj provinciji sv. Ćirila i Metoda s posebnim naglaskom na samostan i svetište na Trsatu* • Dejan Pacek, *Mladci in stražarji: med Seilo sodelovanja in Karibdo izključevanja* • Matjaž Geršič, *Domobranstvo in povojni poboji skozi prizmo pouka zgodovine* • Andrey Tóth, Lukáš Novotný, *On Some Aspects of Political and Legal Background of National Minorities in Czechoslovakia (1918–1938)*

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Izdaja
ZVEZA ZGODOVINSKIH DRUŠTEV SLOVENIJE
Ljubljana

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Redakcija tega zvezka je bila zaključena 15. marca 2014.

Prevodi: Nives Sulič Dular (angleščina), Saša Mlacović (angleščina), Jana Dušková (angleščina)

Oblikovanje in oprema: Vesna Vidmar

Sedež uredništva in uprave: Oddelek za zgodovino Filozofske fakultete v Ljubljani, SI-1000 Ljubljana, Aškerčeva 2/1, tel.: (01) 241-1200, e-pošta: info@zgodovinskicasopis.si; <http://www.zgodovinskicasopis.si>

Letna naročnina: za leto/letnik 2014: za nečlane in zavode 32 €, za društvene člane 24 €, za društvene člane – upokojence 18 €, za društvene člane – študente 12 €. Cena tega zvezka v prosti prodaji je 16 € (z vključenim DDV).

Naročnina za tujino znaša za ustanove 45 €, za posameznike 35 € in za študente 25 €.

Plačuje se na transakcijski račun: SI 56020 1 000 12083935
ZVEZA ZGODOVINSKIH DRUŠTEV SLOVENIJE,
AŠKERČEVA CESTA 2, 1000 LJUBLJANA
Nova Ljubljanska banka, d.d., Ljubljana, Trg Republike 2,
1520 Ljubljana LJBAS12X

Sofinancirajo: Publikacija izhaja s finančno pomočjo Javne agencije za raziskovalno dejavnost RS

Prelom in tisk: Littera picta, d.o.o., Ljubljana, maj 2014

Naklada: 1250 izvodov

Zgodovinski časopis je evidentiran v naslednjih mednarodnih podatkovnih bazah: International Bibliography of the Social Sciences, Historical Abstracts, ABC CLIO, America: History and Life, Bibliography of the History of Art, Ulrich's Periodicals Directory, Russian Academy of Sciences Bibliographies, European Reference Index for the Humanities (ERIH)

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Zgodovinski
časopis

HISTORICAL REVIEW

ISSN 0350-5774

UDK
UDC 949.712(05)

BULLETIN OF THE HISTORICAL ASSOCIATION OF SLOVENIA (HAS)

International editorial Board: Tina Bahovec, PhD, (SI), Bojan Balkovec, PhD, (SI) (Technical Editor), Rajko Bratož, PhD, (SI), Ernst Bruckmüller, PhD, (AT), Liliana Ferrari, PhD, (IT), Ivo Goldstein, PhD, (HR), Žarko Lazarević, PhD, (SI), Dušan Mlacović, PhD, (SI) (Deputy Editor-in-Charge), Božo Repe, PhD, (SI), Franc Rozman, PhD, (SI), Janez Stergar (SI), Imre Szilágyi, PhD, (H), Peter Štih, PhD, (SI) (Editor-in-Charge), Marta Verginella, PhD, (SI), Peter Vodopivec, PhD, (SI), Marija Wakounig, PhD, (AT)

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The editing of this issue was completed on March 15th 2014.

Translated by: Nives Sulič Dular (English), Saša Mlacović (English), Jana Dušková (English)

Design: Vesna Vidmar

Headquarters and Mailing Address: Oddelek za zgodovino Filozofske fakultete v Ljubljani, SI-1000 Ljubljana, Aškerčeva 2/1, phone: +386 1 241-1200, e-mail: info@zgodovinskiasopis.si; <http://www.zgodovinskiasopis.si>

Annual Subscription Fee (for 2014): non-members and institutions 32 €, HAS members 24 €, retired HAS members 18 €, student HAS members 12 €.

Price: 16 € (VAT included).

Subscription Fee: foreign institutions 45 €, individual subscription 35 €, student subscription 25 €

Transaction Account Number: SI 56020 1 000 12083935

ZVEZA ZGODOVINSKIH DRUŠTEV SLOVENIJE,

AŠKERČEVA CESTA 2, 1000 LJUBLJANA

Nova Ljubljanska banka, d.d., Ljubljana, Trg Republike 2,

1520 Ljubljana LJBASI2X

Co-Financed by: Slovenian Research Agency

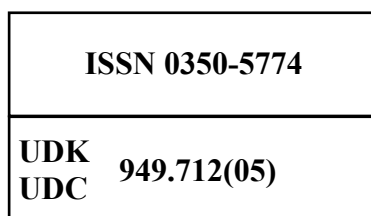
Printed by: Littera picta, d.o.o., Ljubljana, May 2014

Print Run: 1250 copies

Historical Review is included in the following international databases:
International Bibliography of the Social Sciences, Historical Abstracts,
ABC CLIO, America: History and Life, Bibliography of the History of Art,
Ulrich's Periodicals Directory, Russian Academy of Sciences Bibliographies,
European Reference Index for the Humanities (ERIH)

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Andrej Tóth, Lukáš Novotný

On Some Aspects of Political and Legal Background of National Minorities in Czechoslovakia (1918–1938)

UDC 323.(437)“1918/1938”

UDK 323.(437)“1918/1938”

TÓTH Andrej, Ph.D., Lecturer, Vice-Dean, Silesian University in Opava, Faculty of Public Policies, Department of Central-European Studies, CZ-74601 Opava, Hradecká 665/17, andrej.toth@fvp.slu.cz

NOVOTNÝ Lukáš, Ph.D., Lecturer, University of West Bohemia, Pilsen (Plzeň), Faculty of Philosophy and Arts, Department of Historical Sciences, CZ-30125 Plzeň, Tylova 18, novoluk@khv.zcu.cz

On Some Aspects of Political and Legal Background of National Minorities in Czechoslovakia (1918–1938)

Zgodovinski časopis (Historical Review), Ljubljana 68/2014 (149), No. 1-2, pp. 216–234, 76 notes

Language En. (Sn., En., Sn.)

The study summarizes the basic aspects of the issue of status of national minorities in interwar Czechoslovakia 1918–1938. The study constitutes one of the results of the authors' research on the relevant issue, which they have been performing systematically since 2010. The research focus on a number of aspects of politico-social life of ethnic minorities in the era of the First Czechoslovak Republic. One of such aspects consists for example in the issue of representation of minorities in the Czechoslovak National Assembly, which is also summarized in the study.

Keywords: History; 20th Century; National Minorities; Czechoslovak Republic; 1918–1938; Language Law

TÓTH Andrej, dr. predavatelj, prodekan, Šlezijska univerza v Opavi, Fakulteta za javnopolitične vede, Oddelek za srednjeevropske študije, CZ-74601 Opava, Hradecká 665/17, andrej.toth@fvp.slu.cz

NOVOTNÝ Lukáš, dr., predavatelj, Zahodnočeska univerza v Plznu, Filozofska fakulteta, Oddelek za zgodovino, CZ-30125 Plzeň, Tylova 18, novoluk@khv.zcu.cz

Nekateri vidiki političnega in pravnega ozadja narodnih manjšin na Češkoslovaškem (1918–1938)

Zgodovinski časopis, Ljubljana 68/2014 (149), št. 1-2, str. 216–234, cit. 76

1.01 izvirni znanstveni članek: jezik En. (Sn., En., Sn.)

Študija povzema osnovne vidike statusa narodnih manjšin na Češkoslovaškem v obdobju med obema vojnama (1918–1938) in predstavlja enega od rezultatov raziskave te problematike, ki jo avtorja sistematično izvajata že od leta 2010. Raziskava se osredotoča na nekatere vidike družbenopolitičnega življenja etničnih manjšin na ozemlju Prve Češke republike. Eden od njih je na primer vprašanje zastopanosti manjšin v češkoslovaški Narodni skupščini, ki je v skrajšani obliki podano tudi v pričujočem prispevku.

Ključne besede: zgodovina, 20. stoletje, narodne manjšine, Češkoslovaška republika, 1918–1938, jezikovni zakon

Avtorski izvleček

Author's Abstract

Introduction

The First Czechoslovak Republic, which officially came into existence on 14th November 1918,¹ was a state with a significant proportion of national minorities in its population. In addition, about two third majority of the population of the state-forming Czechoslovak nationality was created artificially, by establishing a united nation of Czechs and Slovaks. Of the total number of 13,374,364² citizens of the Czechoslovak Republic in 1921, 6,792,954 were Czechs but only 1,967,983 Slovaks.³ Members of the “Czech branch” were thus represented by 50.79 % of the interwar Czechoslovak population in 1921, while the “Slovak branch” only by 14.71 %. It is obvious that without combining both these population groups in one national group, a state without a qualified majority would have been formed and justification of the existence of such a state unit would have been virtually unthinkable.

The above-mentioned share of Czech and Slovaks on the overall national composition of the First Czechoslovak Republic's population is particularly striking in the context of the numbers of other strong national groups in the Czechoslovak state at that time. Germans, the most populous national minority in the interwar Czechoslovakia, had 3,123,568 (23.35 %) members in the 1921 census. The second largest national minority in the first-republic Czechoslovakia, Hungarians, reached 745,431 members (5.57 %) in 1921. Germans and Hungarians were followed by Rusyns. In total, 461,849 (3.45 %) inhabitants of Czechoslovakia claimed Rusyn nationality in 1921. Poles were the fourth largest national minority, with 75,873 inhabitants in 1921.⁴ These four strongest national minorities in the First Czechoslovak Republic, with a total of 4,406,721 people in 1921, thus had a 32.95 % share in the total population in the early 1920's (!). This percentage of Germans, Hungarians, Rusyns and Poles in the nationality composition of interwar Czechoslovakia did not change significantly throughout the 1920's, as evidenced by statistical data from the second census in the first-republic Czechoslovakia in 1930. This documents that at the beginning of the 1930's, the Czechoslovak Republic

¹ On 28th October 1918, the “*Proclamation of the Czechoslovak National Committee on the Independence of the Czechoslovak State*” was issued, which formally announced the formation of a new state. The state form was not yet determined. The form of the new state was only determined on 14th November 1918, at the first meeting of the Revolutionary National Assembly.

² See *Československá statistika – Svazek 9*, p. 60*.

³ Ibidem, p. 61*.

⁴ Ibidem, p. 60*.

was inhabited by 4,554,517 Germans, Hungarians, Rusyns and Poles, whose share in the total population was 31.45 %.⁵

Even though these statistical numbers of the national composition the First Czechoslovak Republic's population seem rather high, interwar Czechoslovakia was not a rare example of a state with a high proportion of national minorities on the total population. Other countries in Central, Eastern and South-eastern Europe, such as Poland, Kingdom of Serbs, Croats and Slovenes or Yugoslavia, Romania, Latvia, Estonia and Lithuania, showed similar demographic statistical data. The national minority ratio was also quite high in these states. The proportion of national majority population on the total population ranged in the mentioned countries from 68.9 % (Poland) to 88.1 % (Estonia). However, in terms of demographic diversity of contemporary state units, we could find equivalent examples in Western Europe as well, such as in Belgium and Switzerland, a fact the Czechoslovak Ministry of Interior pointed out in the explanatory note to the outline of an unrealized national status project, which was supposed to redefine constitutional position of national minorities in the First Republic toward the end of its existence in 1938.⁶

National map of Poland's population, which amounted to 31,915,779 according to the 1931 census, was very varied. In particular, it consisted of Ukrainians (3,221,975 / 10.1 %), Rusyns (1,219,647 / 3.8 %), Germans (740,992 / 2.3 %), Belarusians (989,852 / 3.1 %), Russians (138,713 / 0.4 %), Lithuanians (83,116 / 0.3) and Czechs (38,097 / 0.1%).⁷ The following national minorities lived in Estonia, which had 1,126,413 inhabitants based on a 1934 census: Russians (92,656 / 8.2 %), Germans (16,346 / 1.5 %), Swedes (7,641 / 0.7 %), Latvians (5,435 / 0.5 %), Poles (1,608 / 0.1 %) and Finnish (1,088 / 0.1 %).⁸ According to a 1930 census in Belgium, 3,513,321 (43.4 %) of the total 8,092,004 inhabitants claimed to be speakers of the French language (solely or most commonly used language was stated), 4,135,568 (51.1 %) of the Flemish language and 100,163 (1.2 %) of the German language. Another 334,206 (4.1 %) inhabitants claimed other languages in smaller proportions.⁹ The total population of Switzerland was 4,066,400 according to a 1930 census, of which 71.9 % (2,924,313) were Germans, 20.4 % (831,097) French, 6 % (242,034) Italians, etc.¹⁰

It is now obvious that the national composition of interwar Czechoslovak population was in no way exceptional. However, only and entirely thanks to the concept of a united Czechoslovak nation. Without the artificially formed united Czechoslovak nation, it would have been hardly possible, in terms of constitutional law, to build Czechoslovakia as a nation-state with a leading political role of one nation. The concept of a nation state would have had to be replaced by a multina-

⁵ See *Československá statistika – Svazek 98*, p. 47*.

⁶ *NA*, f. PMR, Box Nr. 3216, document ref. No. 48.865/1938–1, dated 11th June 1938, *Osnova zákona, kterým se vydává národnostní statut republiky Československé; důvodová zpráva /všeobecná část*, pp. 9–12.

⁷ *Ibidem*, p. 10.

⁸ *Ibidem*, pp. 11–12.

⁹ *Ibidem*, pp. 9–10.

¹⁰ *Ibidem*, p. 10.

tional state concept as in Belgium.¹¹ However, in such a case, without a majority state-forming nation, it would have been impossible to justify the establishment of such a state at the Paris Peace Conference, which reshaped post-war Central Europe.

Estonia was considered a state which absolutely fulfilled its international obligations concerning minorities' protection and perfectly met national minorities' requirements for protecting their national identity, even though this liberality of Estonian nationality law was being gradually reduced in the 1930's. Estonia deserved the attention for its minority law mainly because Tallinn legislatively enabled cultural self-government of its national minorities.¹²

However, like Belgian nationality law, for example, the Estonian nationality law was in the category of maximalist systems of national minorities' protection. Compared to Belgian and Estonian nationality law, the Czechoslovak system of national minorities' legal protection fell in a lower category of typical national systems of nationality law in terms of the degree of collective law superiority to individual rights. The Czechoslovak "non-institutional" and "non-territorial" nationality law was built on broad language law and protection of educational, cultural and social institutions and higher levels, providing at the same time economic guarantees for minorities based on guaranteed individual rights. Protection of national minorities in adjacent Poland and Hungary, for example, was also ensured on this platform, only on a more minimalist level. The local system of nationality law ensured protection of minimal dominion, particularly of national education and language law.¹³

Position of National Minorities in Interwar Czechoslovakia

Czechoslovakia was obliged to legislatively protect national minorities' rights by international treaties signed within the Versailles peace system. Czechoslovakia signed the Treaty for the Protection of National Minorities together with the Peace Treaty of Saint-Germain-en-Laye with the Allied and Associated Powers on 10th September 1919. By signing a minority protection treaty, Prague undertook to fully and absolutely protect the life and freedom of all inhabitants, regardless of their origin, state citizenship, language, race and religion, and to grant them the right of free worship, private or public, of any religion or faith, the practice of which does not interfere with public order and good morals.

¹¹ The Belgian system of national minorities' legal protection was different from the European constitutional practices common at that time in that it was a type of organisation not of a nation-state, built upon a dominant constitutional position of the national majority, but of a multinational state where the role of the state-forming nation was played by two equal nations.

¹² The Estonian parliament enacted cultural autonomy of its national minorities in 1925 – Act of 12th February 1925 on Cultural Autonomy of Minorities, No. 31–32. It did so with reference to Sec. 21 of the 1920 Constitution, according to which "*provided it is not in conflict with state interests, members of national minorities settled in Estonia may establish appropriate autonomous systems to ensure their national and cultural interests*". See ANM, ES, Box Nr. 13, sign. 255, *Zpracování menšinové otázky dr. E. Soboty jako podklad pro jednání s Maďarskem na podzim 1938 – Estonsko*, one-page typed summary.

¹³ ANM, ES, Box Nr. 13, last cited document, p. 1 of a two-page typed document.

Equal rights of all inhabitants, i.e. all citizens of the Czechoslovak Republic, were stipulated by Article 7 of the Minority Treaty.¹⁴ The Treaty from Saint-Germain-en-Laye between the Principal Allied and Associated Powers and Czechoslovakia was the main source of Czechoslovak nationality law. Significant was Article 1, saying that the crucial provisions of the international treaty for the protection of minorities prevailed over national legislative rules.¹⁵ Minority protection treaties signed by victorious Entente countries with some of their allies were guaranteed by the League of Nations. The Czechoslovak Parliament thus could not modify at its discretion passages of the treaty stipulating the protection of minorities. Any amendment of Articles 2 – 8 could only be made with the consent of the Council of the League of Nations, as laid down in the “*guarantee clause*”.¹⁶ It should be noted that some interwar Czechoslovak legal experts (e.g. František Weyr) questioned this construction and “*expressly*” claimed such a “*concept unacceptable*”. Nevertheless, Czechoslovak courts also refused direct domestic obligation of the Minority Treaty.¹⁷

The treaty constituted Czechoslovakia’s obligation toward the international community, i.e. toward the other contracting parties represented in this case by the victorious Entente Powers. These obligations were enforceable on international forums, particularly within the jurisdiction of the League of Nations. However, provisions of this international treaty did not constitute any claims for nationalities in the state and their members, which could be enforced domestically. Such claims were only established within national legislative.¹⁸

Czechoslovakia mostly implemented its international obligations under the Treaty of Saint-Germain-en-Laye in its legal order through legislative rules of constitutional nature. Mandatory rights of minorities in Czechoslovakia outlined by the Minority Treaty were included in the Constitution (see Sec. 128–134 of the Constitution) and further specified in the Language Act and Citizenship Act, both laws of constitutional nature. The obligation to incorporate Carpathian Ruthenia in the Czechoslovak state was attested by Sec. 3 (2) of the Constitution. The Constitution confirmed that Carpathian Ruthenia would become an integral part of the Republic and be “*equipped with the broadest autonomy*”.¹⁹ However, the obligation to establish Carpathian Ruthenia’s autonomy was only legally fulfilled after the Munich Pact. The implementation of Carpathian Ruthenia’s autonomy had been postponed with reference to the backwardness of the region and national immaturity of its population.

The Constitution of the Czechoslovak Republic was the primary framework source of Czechoslovak domestic law which was further complemented by other

¹⁴ The document is officially titled *Treaty between the Principal Allied and Associated Powers and Czechoslovakia signed in Saint-Germain-en-Laye on 10th September 1919*.

¹⁵ To Article 1 see *Sbírka zákonů a nařízení*, year 1921, pp. 2304–2305.

¹⁶ *Ibidem*, p. 2308.

¹⁷ Petráš, *Menšiny v meziválečném Československu*, p. 94. Weyr, *Soustava československého práva*, p. 81.

¹⁸ See Sobota, *Republika národní či národnostní*, pp. 18–19.

¹⁹ *Sbírka zákonů a nařízení*, year 1920, p. 256.

domestic regulations, that is, by common laws and procedural directives, i.e. government decrees, administrative instructions and ordinances. Most of the basic constitutional provisions on minorities were concentrated in the last chapter of the Constitution, i.e. in Chapter VI, and concerned minorities' rights particularly from the perspective of collective law. Protection of national minorities was also stipulated by the preceding provisions of the Constitution, which codified individual and civil rights of all inhabitants of the Czechoslovak Republic and the essence of which was virtually identical with the collective law perspective. Chapter VI of the Constitution can be seen as reproduction of provisions of the Treaty of Saint-Germain-en-Laye. Sections of Chapter VI of the Constitution basically covered the content of corresponding articles of the Minority Treaty: Sec. 128 covered Article 7, Sec. 130 Article 8, and Sec. 131 and 132 Article 9.²⁰

Provisions of Sec. 128 ensured full equality of all Czechoslovak citizens before law and equal enjoyment of civil and political rights regardless of race, language and religion, as well as equal access *"to public service, authorities and officials or regarding the performance of any trade or occupation"*²¹ for all citizens of Czechoslovakia regardless of their religion, faith, confession and language and freedom to use *"any language in private and business contacts, in matters related to religion, in the press and any publications and in public gatherings"*.²² Sec. 130 incorporated in the Constitution provisions of the Minority Treaty concerning non-public education and stated: *"As far as general laws grant state citizens the right to found, control and manage at their own expense charitable, religious and social institutions, schools and other educational institutions, state citizens are equal to each other regardless of their nationality, language, religion and race and can freely use their language and practice their religion in these institutions."*²³ Section 131 ensured *"in cities and districts in which a considerable number of Czechoslovak citizens of other than Czechoslovak language reside"* fair opportunity to obtain public education in their own language.²⁴ Section 132 stipulated minorities' claim to adequate share in the use and enjoyment of amounts allocated from public funds on education, religion and charitable purposes. Of course, *"within the limits of general regulations"* again.²⁵

However, no list of national minorities to which the constitutional protection of rights applied can be found in the Constitution. Regarding this fact, we only encounter schematic, technocratic legal interpretations, explaining why this was not possible and what prevented it.

In addition to the above-mentioned constitutional provisions on the protection of national minorities' rights, protection of Czechoslovak citizens' nationality was

²⁰ Weyr, *Soustava československého práva*, pp. 391, 342 and 395. Petráš, *Menšiny v meziválečném Československu*, pp. 290–291.

²¹ *Sbírka zákonů a nařízení*, year 1920, p. 266.

²² *Ibidem*.

²³ *Ibidem*, p. 267.

²⁴ *Ibidem*.

²⁵ *Ibidem*.

also stipulated by other legislative regulations.²⁶ First of all, this was the Language Act of a constitutional nature (see below). Furthermore, the Republic Protection Act has to be mentioned or, more precisely, criminal protection of Sec. 14 (4) of Act No. 50/1923 Sb. z. a. n. against public inciting to violence or other hostile actions against individuals because of their nationality, language, race or religion, under the threat of a sentence of eight days to three months.²⁷ Paragraphs 2 and 3 of Act No. 50/1923 Sb. z. a. n. protected minority members against purposive violence and hostile actions or grudge under the threat of “*tough imprisonment*” from one month to one year, or from 14 days to six months in terms of collective rights.²⁸ The protection of nationality under Act No. 309/1923 Sb. z. a. n. against oppression and for the protection of free assembly was separately under criminal regulation. Sec. 1 (2) of the Act considered strike activity directed against individual employees “*for reasons of nationality, religion or politics*” to be “*oppression without prejudice to criminality of the action*” according to criminal provisions.²⁹ National minorities were also protected against the denial of nationality by the accepted Moravian Land Act no. 4 of 27th November 1905. Upon the provisions of Sec. 20, members of the District School Council had to be “*members of the nationality for which the schools represented by the District School Council are intended*”.³⁰ We also have to mention civil protection against dismissal from work due to the employee’s nationality under Act No. 330/1921 Sb. z. a. n. on Company Committees.³¹ The domestic legislative system of nationality protection also contained legal protection against undesirable citizenship with respect to nationality. This included provisions on option, which were also stipulated by international treaties.³²

In the Czechoslovak legal order of that time, we can also find legislative rules stipulating a special position of the state nation. Provisions constituting a special position of the Czechoslovak nation include, in particular, Act No. 11/1918 Sb. z. a. n., on the Foundation of the Independent Czechoslovak State, which in the formulation “*in the name of the Czechoslovak nation*” designates the Czechoslovak nation as the only state forming one.³³ The same applied to the Constitution preamble containing the phrase “*We, the Czechoslovak nation*”, by which – as pointed out by the important first-republic lawyer Emil Sobota – “*the Czechoslovak nation is marked as a constitution-giving nation*”.³⁴ Such a definition of the state nation *via facti* put other citizens in the position of minorities. However, a question arises regarding the normative weight of the preamble, as pointed out

²⁶ See Sobota, *Národnostní právo československé*, pp. 18–19. Petráš, *Menšiny v meziválečném Československu*, pp. 296–299.

²⁷ *Sbírka zákonů a nařízení*, year 1923, p. 210.

²⁸ *Ibidem*.

²⁹ *Sbírka zákonů a nařízení*, year 1921, p. 1254.

³⁰ Sobota, *Národnostní právo československé*, pp. 18 and 200.

³¹ See *Sbírka zákonů a nařízení*, year 1921, p. 1330.

³² See Sobota, *Národnostní právo československé*, p. 119.

³³ *Sbírka zákonů a nařízení*, year 1918, p. 9.

³⁴ Sobota, *Národnostní právo československé*, p. 20. See *Sbírka zákonů a nařízení*, year 1920, p. 255.

by the above-mentioned Emil Sobota: *“The normative significance of these parts can be questioned...”*³⁵ Nevertheless, in contrast with the preamble of the introductory law, it has to be added that the actual Constitution does not use the term *“Czechoslovak nation”* in provisions which can be assumed to apply to all the state citizens. See Sec. 1 thereof, according to which *“the people”* are the only source of all state power in the Czechoslovak Republic.³⁶ However, the preamble to the introductory act of the Constitution was drawn up in a rather non-standard way and originally was not even part of the law. It was unexpectedly proposed by the journalist and writer Jan Herben at the session of the Revolutionary National Assembly on 28th February 1920. Herben considered the suggested text a *“motto”* or *“knightly way”* of completing the constitutional work. The proposed preamble wording met with great response in the National Assembly and received a long applause. As Herben later admitted, he was inspired by the American Constitution when writing this declaration.³⁷

Representation of National Minorities in the National Assembly (NA)

Election for the First Republic NA was based on universal, equal, direct and confidential suffrage according to the principle of proportional representation. However, the representation of the western and eastern parts of the Republic in the legislative body was not even. In the western part of the Republic with 73.4 % of the total Czechoslovak population, voters were represented by 230 deputy mandates, i.e. 76.7 % of all deputy seats, while the remaining 26.6 % of inhabitants living outside the historical lands (i.e. Bohemia, Moravia and Silesia) were represented by 70 mandates in the Chamber of Deputies, i.e. by 23.3 % of the total 300 deputy mandates. 61 mandates were allotted to Slovakia and 9 mandates to Carpathian Ruthenia. In case of senatorial mandates, the difference between the two parts of the Republic was even bigger. To people living in Bohemia, Moravia and Silesia fell 76.7 % of the Senate seats and inhabitants of Slovakia and Carpathian Ruthenia 23.3 %.³⁸

In the historical lands, one deputy mandate covered 43,464 inhabitants, while in Slovakia it was 49,073 inhabitants and in Carpathian Ruthenia even 67,303 inhabitants. Even more noticeable asymmetry between the number of mandates and the number of people in electoral districts in the historical lands and Slovakia formed in the NA upper house, the Senate. While in Bohemia, Moravia and Silesia, one senatorial mandate covered on average 86,927 inhabitants, in Slovakia, this number was bigger by almost ten thousand. Here, one senatorial mandate covered 96,564 people. In Carpathian Ruthenia, the mandate/inhabitants ratio was almost

³⁵ Sobota, *Národnostní právo československé*, p. 20. Petráš, *Menšiny v meziválečném Československu*, p. 297.

³⁶ *Sbírka zákonů a nařízení*, year 1921, p. 256.

³⁷ Kučera, *Politický či přirozený národ?*, p. 550.

³⁸ See *Československá statistika – Svazek I*, p. 16*.

two times higher than in the historical lands. One Ruthenian senatorial mandate represented up to 151,433 inhabitants.³⁹

This asymmetry between electoral districts in the historical lands and in the eastern half of the Republic disadvantaged not only Slovaks, members of one of the two branches of the proclaimed united state-forming nation of the Czechoslovak Republic, but particularly the Hungarian minority. In both electoral districts with Hungarian majority, i.e. the Nové Zámky and Košice electoral districts, one deputy mandate represented about ten thousand more voters than in other electoral districts in Slovakia. Statistical data shows that while in the Trnava electoral district, one deputy mandate covered 48,156 people, in the Nové Zámky electoral district this number was 57,223 and in the Košice electoral district 57,238.⁴⁰ On the other hand, in the purely Slovak electoral district of Turčianský Svätý Martin, one deputy mandate only covered 46,993 inhabitants, that is, almost 10,000 less people although the same number of mandates (11 in total) as in the Nové Zámky district was filled here. However, in case of the Turčianský Svätý Martin electoral district, 11 mandates represented 516,920 inhabitants and in case of the Nové Zámky electoral district, 11 mandates represented about 112,500 more people, i.e. 629,458 inhabitants. According to statistics on the first Czechoslovak parliamentary election in 1920.⁴¹

The Hungarian minority was even more disadvantaged in the construction of the Senate electoral districts. While in electoral districts in the historical lands the number of inhabitants per one senatorial mandate ranged between 77,404 and 94,422, in the Hungarian-majority Nové Zámky electoral district, which for the Senate election also included the Košice electoral district, the total number of inhabitants per one mandate reached 114,459, with the number of people per one senatorial mandate in Slovak electoral districts ranging between 82,549 and 95,033.⁴²

In addition to the disproportion in the number of people represented by one mandate in electoral districts in Bohemia, Moravia and Silesia, the eastern part of the country was also handicapped by unequal conditions of candidacy in the country's legislative body. While in the historical lands candidacy in the legislative body was conditional upon acquiring one hundred voter signatures, in Slovakia and Carpathian Ruthenia one thousand signatures were required for candidacy. This differential rule for the NA candidacy was applied until 1935. Representatives of the Hungarian minority pointed out that this dual rule stipulating candidacy in the central legislative body for the historical lands and Slovakia and Carpathian Ruthenia was one of significant discriminative elements handicapping the equality of political competition in Czechoslovakia and internationally.⁴³

It has to be emphasized, however, that the legislative body of interwar Czechoslovakia was one of the most democratic parliaments in Europe at that time.

³⁹ Ibidem.

⁴⁰ Ibidem.

⁴¹ Without including the Těšín electoral district (No. XXII) where no election was held in 1920. Ibidem.

⁴² Ibidem.

⁴³ See *The Situation of the Hungarian Minority*, p. 17.

In all European countries except for Finland, Lithuania and Czechoslovakia, only the official, state language could be used in legislative bodies.⁴⁴ The right to use minority languages in the NA of the First Czechoslovak Republic was very broad and was protected by Act No. 325 of 15th April 1920 stipulating the standing rules of the Chamber of Deputies of the NA and by Act No. 326 of the same date stipulating the standing rules of the Senate. The considerably broad right of deputies to use their mother tongue in the Czechoslovak NA is evidenced by the fact that the oath of office was read out to legislators of German, Hungarian, Rusyn and Polish nationality in their language, and deputies could also use their language to take the oath. This right also applied to the Speaker's and Deputy Speaker's oaths if they were appointed from deputies of other than Czechoslovak nationality. Also in voting by name, these deputies could use their language. Memoranda of the Republic's President for the NA were also printed in minority languages.⁴⁵

Language Law

The Language Act adopted at the end of February 1920⁴⁶ and forming a separate part of the Constitution was based on the Czechoslovak language⁴⁷ as the official, state language of the Republic, without clearly defining this term, in which *“the administration of all courts, authorities, institutions, enterprises and state bodies is carried out, and their notices and outside marking are performed, except for the provisions of Sections 2 and 5 and with the exception of what will be stipulated under Section 6 for Carpathian Ruthenia”*. This meant that all internal administration was carried out exclusively in the official state language of the Republic. Pursuant to the law, the main text on government notes and bank notes also was to be in the Czechoslovak language, and the armed forces were to use it for commanding and as a service language.⁴⁸

The Language Act did not stipulate all areas of language law or, more precisely, its purpose was not to stipulate all language exchanges in the Czechoslovak

⁴⁴ See Surányi, Váradi, *Maďarská minulosť a prítomnosť*, p. 161.

⁴⁵ *Sbírka zákonů a nařízení*, year 1920, pp. 746 and 752–753, 762 and 769.

⁴⁶ It was promulgated on 6th March. The adopted law cancelled *“all language regulations that were in effect before 28th October 1918”*. *Sbírka zákonů a nařízení*, year 1920, p. 269. The quoted passage of Section 9 was superfluous, because according to the principle *lex posterior derogat priori* it was self-evident. Weyr, *Soustava československého práva*, p. 420, note 1.

⁴⁷ *“The term ‘Czechoslovak language’ shall only express the absolute equality and reciprocity of both language branches in the entire Republic”*. Sobota, *Národnostní právo československé*, p. 23. However, Section 4 stipulated that on the territories of the Republic which before 1918 belonged *“to kingdoms and lands represented in the Reichsrat or to the Kingdom of Prussia, they usually officiate in Czech, and in Slovakia usually in Slovak”*. *Sbírka zákonů a nařízení*, year 1920, pp. 268–269.

⁴⁸ See Sec. 1 of the Act. *Sbírka zákonů a nařízení*, year 1920, p. 268. However, the law did not define the term “administration”; neither did it specify “courts, authorities, institutions, enterprises and state bodies”. This task was left up to the government and its language regulation. Regarding a service language in the army, the law said that *“in contact with the men not knowing that language, their mother tongue may be used as well”*. Ibidem.

state but rather to cover the use of language “*in the area of public authority, both state and self-governing*”.⁴⁹ The adopted law was a constitutional act containing only basic principles governing the language law in Czechoslovakia which is why Section 8 said that a more detailed “*implementation of this law shall be done through a regulation of the state executive power, which shall also stipulate within the spirit of this law the use of languages for self-governing authorities, representative bodies and public corporations (Sec. 3), as well as for those authorities and public bodies that have jurisdiction over districts smaller than a judicial district or have no district of their own*”.⁵⁰ Having delegated the issuance of implementing regulations upon the executive power, the constitutional legislator pursued two goals in 1920 – for practical reasons, the Language Act could not be overloaded with detailed provisions; in addition, there was a concern “*that more detailed implementation of those principles by means of legislation would encounter great obstacles given the expected nationality composition of the prospective National Assembly*”.⁵¹

Sections 2, 3, and 5 also with national minorities. The first one stated: “*Courts, authorities and republic bodies having jurisdiction over a judicial district inhabited according to the latest census by at least 20 percent of citizens of the same, but other than Czechoslovak, language*” were bound to “*accept from members of this language minority submissions in their language and to issue executions of these submissions not only in the Czechoslovak language, but also in the language of the submission*”.⁵² Within the meaning of the Language Act, a language minority comprised of state citizens of other than Czechoslovak language who made up at least 20 % of the population of a judicial district.⁵³ Only when this condition was met were these citizens entitled to language protection based on the Language Act provisions. If the opposite were the case, they had to address the authorities in Czechoslovak language. This meant that they could not apply the language rights on the entire territory of the state but only in the above-mentioned judicial districts. Section 2 thus only stipulated an exception from the “administration” principle contained in Section 1.

Section 3 talked about the parties’ language rights at self-governing authorities, representative bodies and all public corporations. “*All of these bodies were obliged to accept and process both oral and written submissions in the Czechoslovak language*”. With respect to other languages, provisions of Section 2 applied.⁵⁴

The chosen 20 % clause meant that about 130,000 speakers of German, 50,000 speakers of Hungarian and 12,000 speakers of the Polish language lived within judicial districts inhabited by minority members who did not make up the necessary 20 % of state citizens of other than Czechoslovak language. About

⁴⁹ Sobota, *Výklad našeho jazykového*, p. 5.

⁵⁰ *Sbírka zákonů a nařízení*, year 1920, p. 269.

⁵¹ Weyr, *Soustava československého práva*, p. 418.

⁵² *Sbírka zákonů a nařízení*, year 1920, p. 268.

⁵³ “*However, this definition is intended for the specific purpose of language law and therefore cannot be used in other fields, such as in education law.*” Sobota, *Republika národní či národnostní*, p. 16.

⁵⁴ *Sbírka zákonů a nařízení*, year 1920, p. 268.

753,000 speakers of German, 250,000 speakers of Hungarian and 45,000 speakers of the Polish language lived in judicial districts where minorities made up at least 20 % of citizens; and finally, 2,250,000 speakers of German, 450,000 speakers of Hungarian and 19,000 speakers of the Polish language lived in judicial districts where minorities made up at least two thirds of the population.⁵⁵

Section 5 covered education and culture and stipulated that classes *“in all schools established for members of national minorities shall be carried out in their language and cultural institutions established for them shall be managed in this language as well”*.⁵⁶

In Section 6, the Language Act also dealt with the issue of Carpathian Ruthenia. It stipulated that *“it is reserved for the assembly which is to be established for Carpathian Ruthenia to stipulate the language question for this territory in a way compatible with the unity of the Czechoslovak state”*.⁵⁷ This meant that the definitive stipulation of the language law was entrusted to the Carpathian Ruthenia assembly. Since the assembly was only formed in 1938, provisions of the Language Act applied in Carpathian Ruthenia with respect to the specifics of this territory.⁵⁸ Outside of the boundaries of Carpathian Ruthenia, the Rusyn language was in the position of a minority language; otherwise, it had the same position as the Czechoslovak language.

The Language Act was also associated with a fundamental contradiction in the minority issue, *“where the overall attitude to minorities, and particularly to Germans, was concerned. The principle of purposefulness was officially proclaimed the main principle of the Language Act, and everybody was to have the possibility to communicate in their own language. In practice, however, principles of prestige prevailed to a considerable degree, according of which it was the Czechoslovak nation that formed the state”*, says René Petráš.⁵⁹ We can agree with this opinion, because Petráš's assessment of the Language Act points out a discrepancy between the theory, more precisely, the officially declared policy and the actual practice, and it could be applied to other areas related to national minorities in interwar Czechoslovakia. The adopted legislation was supposed to be implemented by people who did not always fully identify with it. We accept another opinion of Petráš's as well, according to which *“despite a quite favourable attitude to minorities, the laws of 29th February 1920 represented an obvious tendency to form a nation-state, which also manifested in case of the Language Act”*.⁶⁰

Rather surprisingly, a regulation to implement the Language Act was only issued on 3rd February 1926. The document issued at the beginning of February 1926 only applied to administration, the issuance of decrees and outside marking of all courts,

⁵⁵ Sobota, *Výklad našeho jazykového*, 17. One year later, Emil Sobota slightly corrected his information. See Sobota, *Národnostní právo československé*, pp. 39–40.

⁵⁶ *Sbírka zákonů a nařízení*, year 1920, p. 269.

⁵⁷ *Ibidem*.

⁵⁸ *NA*, f. MV – SR, sign. 20/2/31, Box Nr. 502.

⁵⁹ Petráš, *Měšiny v meziválečném Československu*, p. 193.

⁶⁰ *Ibidem*, p. 194.

authorities, institutions, enterprises and bodies falling under the Ministries of Interior, Justice, Finances, Industry, Business and Trades, Public Works and Public Health and Sports. So it did not apply to *“the Ministries of Foreign Affairs, Social Care, Agriculture, Railways, Postal Service and Telegraphs, National Defence, Education, Provision, Unification, as well as their subordinate authorities, institutions and enterprises, such as Education Offices (Land and District School Boards of Committees), management of educational institutions, directorate of state railways, post and telegraph offices, offices for agricultural operations, state farms and forests, etc.”*⁶¹

National minorities were provided for in Chapters II and III. Provisions of the implementing regulation regarding national minorities clearly defined when and under which conditions citizens of other than the official, state language can use their language before courts, authorities and bodies. The regulation did not dispute the Language Act clause on 20 % of state citizens of other than Czechoslovak language, but in Article 14 talked explicitly about the *“state”* language. Speakers of a *“national minority”* language could be *“not only individuals, but also corporate bodies and similar independent legal entities, as well as self-government authorities, representative bodies, ecclesiastical authorities and other corporations”*.⁶² So under certain circumstances, speakers of minority languages were allowed to use their language, but not any other minority language, before courts, authorities and state bodies. If they chose to do so, they could naturally use *“the state, official language of the Republic”*.⁶³ They could choose the language either by an explicit statement *“or tacitly”*, meaning that they turned to the relevant court, authority or state body in German, for example.⁶⁴

There is no doubt that the regulations to implement the Language Act on one hand provided further explanations and specified its not very detailed formulations but, on the other hand, these specifications impaired the position of minority languages, particularly in terms of practical application; however anybody reading the actual provisions on paper usually came to the opposite conclusion. Substantial room left for decisions of state authorities and local government bodies often brought about results unfavourable to national minorities.

⁶¹ Sobota, *Výklad našeho jazykového*, p. 7. The regulation also applied to local government authorities, but did not apply to county and district councils.

⁶² Ibidem, p. 58. Article 16 also specified in detail affiliation to a minority.

⁶³ However, speakers of the official language did not have the same option *vice versa*. They could not use minority languages before authorities. *“This could have been considered a kind of a theoretical detriment to the dignity of the minority language that the majority of population (i.e. speakers of the state language) may not use it before courts and authorities, reducing the possibility of its spreading and cultural effect, had this not affected all minority languages without difference and arisen from the constructive foundation of our language law. ... The law protects the possibility of using a minority language but does not protect this language as abstractum.”* Havrda, *Práva jazykových menšin*, p. 77.

⁶⁴ Sobota, *Výklad našeho jazykového*, p. 11.

Censorship Practices and Freedom of the Press

The foundation of Czechoslovakia brought about changes in the legislative framework of media, or more precisely, functioning of the press. The Constitution of 29th February 1920, whose regulations cannot be interpreted separately but in their entirety, stipulated in Sec. 113 that: *“freedom of the press, as well as the right to assemble and form associations peacefully and unarmed shall be ensured,”* and in the following sentence prohibited preliminary censorship.⁶⁵ However, in paragraph 3 of this Section, the legislator included the possibility to determine by law *“to which limitations the principles laid down in previous paragraphs shall be subject in times of war or when such events occur in the state that poses a significant threat to the republican state form, the Constitution or public peace and order”*.⁶⁶ Press law was also dealt with in Section 117, the first paragraph of which allowed every citizen of the Republic to *“express their opinion in words, writing, the press, pictures, etc. within the limits of the law”*.⁶⁷

The Constitution of the Czechoslovak Republic ensured freedom of the press for all citizens, which under normal circumstances did not allow preventive interventions (preliminary censorship, etc.) but permitted its legal limitation in time of war or considerable unrest. However, this was just a general principle of press freedom lacking a regulatory consequence and exactly defined content (except for the prohibition of preliminary censorship). “Subsequent” censorship was not mentioned anywhere.

Despite this, the First Czechoslovak Republic was able to carry out censorship interventions, that is, confiscation of inconvenient printed materials, under the effective laws. These interventions mostly concerned the communist press and newspapers representing opinions of national minorities, here mostly Germans and Hungarians. Subject to confiscation were mostly articles with a content that was deemed “non-permissible news coverage” or “dissemination of false information” by the Republic Protection Act. The censorship practice would become stricter with the increasing distance from the capital city. What could be published in Prague could be confiscated in Slovakia.⁶⁸

Before the parliamentary election in 1920, the Revolutionary National Assembly, a body with no representation of national minorities, passed a law on

⁶⁵ *Sbírka zákonů a nařízení*, year 1920, p. 265. Section 113 stipulated three different issues – freedom of the press, right of assembly and right of association. However, the seemingly illogical combination of these three matters becomes more systematic in that *“content of Sec. 113 forms a whole with respect to the Act for Extraordinary Measures; consequently the legislator thought it effective to stipulate freedom of the press in connection with the right of assembly and association”*. Weyr, *Soustava československého práva*, p. 361.

⁶⁶ *Sbírka zákonů a nařízení*, year 1920, p. 265.

⁶⁷ *Ibidem*, p. 266. In Section 24, the Constitution also stipulated immunity of National Assembly members not only to all criminal acts, but also to disciplinary proceedings. However, paragraph two admitted one exception: *“These provisions do not apply to criminal liability that a member of the National Assembly has as an editor.”* *Ibidem*, p. 258.

⁶⁸ Beránková, Křivánková, Ruttkay, *Dějiny československé žurnalistiky*, pp. 77–78.

extraordinary measures (No. 300/1920 Sb. z. a n. of 14th April 1920) by which the state reserved interventions in freedom of the press in the event of war “*when such events occur in the state that poses a significant threat to the republican state form, the Constitution or public peace and order...*”, in which case measures could be adopted that limited or suspended “*liberties guaranteed by the Constitution under Sections 107, 112, 113 and 116...*”⁶⁹ Upon this law, had it been decided by Government resolution and the resolution approved by the President, provisions of Sec. 113 of the Constitution prohibiting preliminary censorship could have been limited or suspended.

Another rule interfering with freedom of the press appeared in 1923 (the Republic Protection Act No. 50/1923 Sb. z. a n.). The law was passed despite protests of those “*against whom it was mainly directed: the revolutionary left, national minorities and actually also the People’s Party*”.⁷⁰ As for periodicals, the Republic Protection Act admitted their discontinuation if their articles threatened the state security. Sections 14 (disturbing public peace), 15 (encouraging non-fulfilment of legal duties or criminal acts) and 16 (approving criminal acts) significantly limited freedom of the press. Section 18 warned against the dissemination of false news that could seriously alarm the public.⁷¹

However, the press issue was not stipulated by any comprehensive legal rule in the 1920’s. Only in April 1932 did Minister of Justice Alfréd Meissner introduced in the Chamber of Deputies the so-called Great Press Bill. The rule dealt comprehensively with all issues of press law. It stipulated the obligation to submit printed materials: “*The obligation to submit official copies is only fulfilled when they are submitted to the authorities no later than upon the beginning of their dissemination.*”⁷² The possibility of printed materials’ confiscation by the Prosecuting Attorney’s Office or State Security Office was preserved.⁷³ In the end, the bill was not enacted; the explanatory note of the Constitutional Committee referred to “*the current domestic and foreign political situation of the state*” and postponed “*the solution to a later time*”.⁷⁴ After 14 years of Czechoslovakia’s existence, attempts to resolve the press law with a comprehensive reform only resulted in the so-called Little Press Act (1933).

The so-called Little Press Bill was passed in the Chamber of Deputies thanks to the governmental majority on 22th June 1933. With respect to the fact that the majority also included two German political parties (*Deutsche sozialdemokratische Arbeiterpartei in der Tschechoslowakischen Republik* and *Bund der Landwirte*, BdL), their representatives did not participate in the consideration of the bill except for Franz Bacher, guest of the BdL Club of Deputies. Deputies of the third German activist political party, the non-governmental *Deutsche christlichsoziale*

⁶⁹ *Sbírka zákonů a nařízení*, year 1920, p. 690.

⁷⁰ Klimek, *Velké dějiny země*, p. 384.

⁷¹ *Sbírka zákonů a nařízení*, year 1923, pp. 210–211.

⁷² *Tisky poslanecké sněmovny*, print No. 1727, the Government Bill on the Press, p. 11.

⁷³ *Ibidem*, p. 43.

⁷⁴ Kohout, *Recepce rakousko-uherského tiskového*, p. 117.

Volkspartei, did not present their contribution either. Critical comments were only presented by representatives of Hlinka's Slovak People's Party (*Hlinkova slovenská ľudová strana*, HSL'S) and Hungarian political parties (deputies János Jabloniczky and József Törkölly). Critics of the law agreed that the proposed amendment would introduce censorship even stricter than under Austria-Hungary. János Jabloniczky from the Provincial Christian-Socialist Party (*Országos Keresztényszocialista Párt*) said in his speech that the proposed law contradicted the spirit of democracy and emphasized the inequality between the Czechoslovak nation and members of minorities. He also criticized the Republic Protection Act, calling it a regression before 1848, and sharply refused the bill, claiming it was not democratic and his party would therefore vote against it.⁷⁵

In the 1930's, the Republic Protection Act, which intervened in freedom of the press and freedom of speech, as well as rules dealing with the press were amended several times, which was required by domestic and foreign political development or, more precisely, by the Adolf Hitler's accession to power significantly influencing Czechoslovak domestic political scene. The mentioned amendments mostly supplemented and tightened up the existing provisions and met with sharp criticism of deputies of the Communist Party of Czechoslovakia, HSL'S and representatives of national minorities; however, deputies of German political parties represented in the Government did not participate in debates or did not criticize considered amendments. Government deputies, on the other hand, defended the presented amendments, claiming that those who obeyed law and pursued their activities in compliance with the Constitution and laws did not have to worry.

Conclusion

Czechoslovakia provided all its citizens, i.e. state nationals of the Czechoslovak Republic, with the same rights regardless whether they were Czechs, Slovaks, Germans, Hungarians, etc. No legal regulations were conceived in such a way as to directly harm state nationals of other than Czechoslovak language. By signing the Minority Treaty, Prague undertook to provide all inhabitants with full and absolute protection of their life and freedom, regardless of their origin, citizenship, language, race and religion, as well as the right to freely practice, both publicly and privately, any confession, religion or faith, the practice of which is not in conflict with public order and good morals. The society and state and legal life in interwar Czechoslovakia were built on advanced constitutional principles, with a dominant position of individual civil law which, *via facti*, was superior to collective rights.

Czechoslovak constitutional law, as well as administrative legal regulations stipulating the protection of national minorities represented standard legal rules of that time. Probably the greatest shortcoming of these regulations was to leave

⁷⁵ *Těsnopisecké zprávy poslanecké sněmovny Národního shromáždění*, meetings 254–292, compare 284th meeting of the Chamber of Deputies on 20th June 1933, pp. 4–5.

considerable room for decisions of state authorities and local government bodies. However, the legal rules alone could not regulate in detail and on case-by-case basis all situations that could happen in everyday reality; bilateral will and willingness to coexistence had to be present. As always and everywhere, there were discrepancies between the theory and practice since the adopted legislation was to be fulfilled by people who not always fully identified with it.

However, the constitutional concept of interwar Czechoslovakia contained seeds of future hard-to-overcome clashes on the domestic political scene, which manifested in the 1930's under the influence of changed international and political circumstances. One of the main causes of the future serious domestic political problems of the Czechoslovak First Republic was especially the artificially created nationally centralist concept of state administration, which on most levels of political, social and cultural life handicapped national minorities. Deciding national minorities of the Czechoslovak Republic, as well as Slovaks, the second half of the politically declared Czechoslovak nation-state, gradually stood up against this concept.

However, it needs to be emphasized in conclusion that the so-called First Czechoslovak Republic was undoubtedly the most democratic country in Central and Eastern Europe, having guaranteed its citizens, including national minorities, the broadest political and civil liberties. When assessing national minorities' situation in that period, we need to remember that their position was one of the best in Europe (compared to Poland or Italy, for example) in terms of granted rights. The possibility to use their language in the legislative body (a similar situation was only in Finland and Lithuania) or, under clearly defined circumstances, in their communication with courts, authorities and state bodies speaks for itself.

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POVZETEK

Nekateri vidiki političnega in pravnega ozadja narodnih manjšin na Češkoslovaškem (1918–1938)

Andrej Tóth, Lukáš Novotný

Razprava na osnovi preučevanja izbranih zakonov in doslej neobjavljenih virov analizira nekatere vidike (položaj manjšin, zastopstvo v Narodni skupščini, jezikovni zakon, cenzurne prakse in vprašanja, povezana z zemljiško reformo) političnega in pravnega ozadja narodnih manjšin (Nemcev, Madžarov, Rusinov in Poljakov) na Češkoslovaškem v obdobju med obema vojnama. Češkoslovaška republika, ena od držav naslednic avstroogrške monarhije, je imela precejšnje število pripadnikov narodnih manjšin – oziroma natančneje državljanov, katerih jezik ni bil čehoslovaški (po podatkih obeh cenzev jih je bilo leta 1921 32,95 % in leta 1930 31,45 %).⁷⁶ Tako ustava kot tudi jezikovni zakon, ki sta bila na začetku dvajsetih let 20. stoletja sprejeta brez sodelovanja predstavnikov narodnih manjšin, sta vsem narodnim manjšinam zagotavljala obsežne pravice, saj je morala Češkoslovaška republika vključiti v svojo pravni red tudi odločbe

⁷⁶ V raziskavo so zajeti le Nemci, Madžari, Rusini in Poljaki.

Pogodbe o manjšinah (tako imenovane Male pogodbe iz St. Germain-en-Laye), ki so postale glavna osnova za češkoslovaško pravo o državljanstvu. Češkoslovaški sistem zaščite manjšin je temeljil na naprednih ustavnih in pravnih načelih, med katerimi je imelo najpomembnejšo vlogo civilno pravo. V praksi je to pomenilo, da so imeli vsi državljani češkoslovaške republike enake ustavne pravice ne glede na izvor, jezik, raso ali veroizpoved. S takim pristopom k narodnim manjšinam je bila takoiimenovana Prva češkoslovaška republika med tistimi državami, ki so vsem svojim državljanom, vključno s pripadniki narodnih manjšin, zagotavljale obširne politične in državljanske svoboščine – na primer možnost uporabe manjšinskih jezikov v zakonodajnih organih.

ISSN 0350-5774



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