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## Linguistic Legislation in Hungary during the Era of Dualism

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### Introduction

This paper contains part of the results of the author's doctoral research project.<sup>1</sup> This project starts from the recognition that in today's world of globalization the functional decline of smaller or lesser-used languages, simultaneous with the expansion of English as a global *lingua franca*, is faster than ever. In this context, the issue of minority languages and linguistic rights is of utmost actuality and social importance. Although there have been significant developments and endeavors for standardization in the field of minority language protection at the European level, language policies, regulations, and practices related to the linguistic and minority issues of the individual states in Europe still vary considerably. This was perhaps even more so a few hundred years ago. Exploring these differences and raising awareness regarding their grounds (or groundlessness) among policy makers and legislators can serve as a major guide in shaping linguistic legislation.

To this end, the research project includes the analysis of the linguistic legislation and language policy of certain European states – namely, Spain, the United Kingdom, France, Hungary, and Austria – from the first appearance of language-related laws to the present. In addition to this historical approach, the above-mentioned states will be compared with each other, and will be evaluated in the broader context of international and European Union law on language rights. The ultimate goal of the research is to propose *de lege ferenda* recommendations on the standards of just and rightful linguistic legislation, which could contribute to the alleviation of majority-minority conflicts and the peaceful coexistence of different ethnic groups.

Such a complex research field as language rights is claimed by many disciplines: law, sociolinguistics, philosophy, political science, sociology, social psychology, etc. Although the research to a certain extent invokes the points of view of

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each of these disciplines, it primarily falls in the scope of legal history. The research findings should always be interpreted in light of the chosen method – *i.e.* analyzing legislative documents related to ‘the language issue’ – and the purpose of the research (see above). Furthermore, although the subject-matter of language rights, due to the nature of legal regulation and also as a practical necessity, is bound in several ways to the protection of minorities, the research cannot take into consideration all the aspects of the minority question, instead it intends to focus on linguistic legislation.

This paper will discuss only a narrow part of the research project: Hungary’s legislation on language use during the era of Dualism, *i.e.* the period of the Austro-Hungarian Monarchy (1867–1918). Nevertheless, presentation of the antecedents is necessary for the proper understanding of linguistic legislation in this period. Similarly, the conclusion will take advantage of the results of the comparative analysis of linguistic legislations of contemporary Western European states.<sup>2</sup>

### Official Language Use in the Kingdom of Hungary before 1867: The Introduction of Hungarian as the State Language

The Kingdom of Hungary always consisted of various peoples, as was the case with other empires. However, in contrast to most Western European states, we find no legislation on the official status of the national (Hungarian) language – or on the issue of language use – from the establishment of the Kingdom of Hungary in the 11th century until the end of the 18th century.

In the Kingdom of Hungary, the language of public administration had been *de facto* Latin before the country became part of the Habsburg Empire (1000–1526)<sup>3</sup>, and remained that way during 1526–1784 and 1790–1844. German was made the official language of public administration during 1784–1790 as a result of King Joseph II’s language decree<sup>4</sup>, and again during the period of neo-absolut-

2 For further information on the linguistic legislation of Spain, the United Kingdom and France, see the author’s following papers (in English): Noémi Nagy, Linguistic Diversity and Language Rights in Spain, in: *Studia Iuridica Auctoritate Universitatis Pécs Publicata* 150, Essays of Faculty of Law University of Pécs Yearbook of 2012, Pécs 2012, 183–202; Noémi Nagy, Policies and Legislation on Autochthonous Languages in the United Kingdom, in: *Studia Iuridica Auctoritate Universitatis Pécs Publicata*, No. 151, Essays of Faculty of Law University of Pécs Yearbook of 2013, Pécs 2013, 129–150; Noémi Nagy, The History of Linguistic Legislation in France, in: *Journal of European History of Law* 4/2, London 2013, 137–143.

3 At least concerning written documents [*lingua diplomatica*]. However, Hungarian was widely used orally in every forum of public life [*lingua publica*], including the Diet (traditional name of the Hungarian Parliament), the royal council, judiciary, local administration, etc. Cf. István Berkeszi, Rendi országgyűléseink magyarsága [The Hungarianness of our Feudal Diets], Temesvár 1898; Mihály Herczeg, A magyar államnyelv jogai [Rights of the Hungarian State Language], Budapest 1904, 20–60; Orsolya Nádor, Nyelvpolitika. A magyar nyelv politikai státuszváltozásai és oktatása a kezdetektől napjainkig [Language Policy. Changes in the political status of the Hungarian language and its education from the beginning until today], Budapest 2002, 43–56.

4 Cf. Ferenc Soós, II. József német nyelvrendelete és a hivatalos Magyarország [Joseph II’s Order on the German Language and the Official Hungary], in: Ferenc Bircó (Ed.), *Tanulmányok a magyar*

ism<sup>5</sup>, before the Austro-Hungarian Compromise (1849–1867). In the meantime, peoples of the kingdom were free to use their native languages in their daily business. As Baron József Eötvös, one of the most eminent Hungarian statesmen of the 19th century put it:

'As if the view that St. Stephen had expressed in his advising letters to his son – "a country where only one language and one custom prevails, is weak" – [...] had been accepted as a governing rule by his descendants: royal power did not work on the assimilation of the country's various peoples, on the contrary, it sought to preserve the special features of the individual parts of the dominion, so that their relationship with the crown do not change. [...] The residents of this homeland, although speaking different languages, considered themselves to be citizens of one country. In terms of their tongues, they remained Slavs, Vlachs, or Germans, but they never for one minute ceased to be Hungarians.<sup>6</sup>

Ignác Romsics, a prominent contemporary Hungarian historian, shares the same view:

'As *nobilis Hungarus* referred to the whole nobility, the university of nobility, regardless of differences in language and origin, so did [...] *hungarus* apply to all inhabitants of the country. Hungarian feudal state law, which created such a deep gap between noble and non-noble, made no difference between Hungarian and non-Hungarian. The issue of nationalities in Hungary simply did not exist before the 18th century.<sup>7</sup>

nyelv ügyének 18. századi történetéből [Studies on the History of the Cause of the Hungarian Language in the 18th Century], Budapest 2005, 261–301.

- 5 Cf. Ágnes Deák, "Nemzeti egyenjogúsítás" 1848–1860 ["National Emancipation" 1848–1860], Budapest 2000, 191–224.
- 6 ['Mintha a nézet, melyet szent István fiának adott tanácsaiban kimondt, hogy «egy nyelvű s szokású ország gyenge! [...], utóda által kormányzási szabályul fogadtatott volna el: a királyi hatalom nem az ország különböző népeinek assimilatioján dolgozott, sőt inkább abban kereste feladását, hogy a birodalom egyes részeinek sajátosságai feltartván, a viszony, melyben azok a koronához állanak, ne változzék meg. [...] E hon külön ajkú lakói nyolcz századon át egy ország polgárainak érezték magokat, kik nyelvökre nézve slávok, oláhok, németek maradtak, de soha egy perczig nem szüntek meg magyarok lenni.'] József Eötvös, A nemzeti kérdés [The Nationality Question], Pest 1865, 17–23. Translated by the author.
- 7 ['Ahogy a *nobilis Hungarus* az egész nemességet, a nemesség egyetemét jelentette nyelvi és származási különbségekre való tekintet nélkül, úgy [...] a *hungarus* is az ország minden lakosára vonatkozott. A feudális magyar államjog, amely oly mély szakadékot vont nemes és nem nemes közé, magyar és nem magyar között semmiféle különbséget sem tett. A 18. század előtti Magyarországon nemzeti kérdés tehát egyszerűen nem létezett.'] Ignác Romsics, Nemzet és állam a modern magyar történelemben [Nation and State in Modern Hungarian History], in: Pál Pritz – Balázs Sipos – Mildós Zeidler (Eds.), Magyarország helye a 20. századi Európában [Hungary's Place in 20th Century Europe], Budapest 2002, 7–26, here 7f. Translated by the author.

In order to understand the above-mentioned, some terminological clarification is needed. 'Nationalities' is the preferred term in Hungarian legal tradition used instead of 'national minorities' or 'minority nations' to denote the different ethnic groups of the country. Similarly, the pre-modern term 'Hungarian nation' or '*natio Hungarica*' as articulated in Werbőczy's *Tripartitum* was made up only of the '*populus*' (nobles, clergy and free cities), which were not necessarily ethnically Magyar (Hungarian), while the '*plebs*' (serfs and others without political rights), many of whom were ethnically Magyar, were not members of the 'nation'.<sup>8</sup>

The radical change of this situation is due to the interplay of numerous social and political circumstances. József Eötvös's emphasizes five factors turning the issue of nationalities into a state of ferment at the end of the 18th century: (1.) the progress which the peoples of different languages living in Hungary made in civilization – this was manifested mainly in the cultivation of their own languages and literature; (2.) nationalist movements of the neighboring countries sharing a common ethnicity and language with part of Hungary's citizens; (3.) replacing Latin as the language of the legislature and public administration with Hungarian – this gave Hungarian-speakers an advantage they had not possessed before<sup>9</sup>; (4.) rapid progress in the field of politics – even though there was no legal difference between people belonging to different ethnic groups, the majority of the privileged classes *de facto* belonged to the Hungarian nationality, so antagonism between nobles and non-nobles intensified the conflict between nationalities; (5.) the influence, which the people of the country (regardless of language and ethnicity) have gained on public affairs since the democratic transformation.<sup>10</sup>

The introduction of Hungarian as the official language of the state was a gradual process that took place from the end of the 18th century, more significantly from 1830 onwards, by means of a series of smaller or greater concessions from the sovereign, being part of the dynamics of the emergence of modern nationalism.<sup>11</sup> It is important to note that these statutes only applied to Hungary proper (*intra fines regni Hungariae*), but not to the related territories such as the Kingdom of Croatia, the Grand Principality of Transylvania<sup>12</sup>, and the Military Frontier.

8 Cf. Endre Arató, A magyar "nemzeti" ideológia jellemző vonásai a 18. században [Typical Features of Hungarian "National" Ideology in the 18th Century], in: György Spira – Jenő Szűcs (Eds.), *Nemzetiség a feudalizmus korában. Tanulmányok [Nationality in the Age of Feudalism. Studies]*, Budapest 1972, 130–181.

9 But cf. *supra* n. 4.

10 Eötvös, A nemzetiségi kérdés, 24f.

11 On the construction of 'nation', see Benedict Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, London 1991. On the specific case of Hungary, see Endre Arató, *A nemzetiségi kérdés története Magyarországon 1790–1849, I–II. kötet [The History of the Nationality Question in Hungary 1790–1849, Vol. I–II.]*, Budapest 1960. Oszkár Jászi, *A nemzeti államok kialakulása és a nemzetiségi kérdés [The Formation of Nation States and the Nationality Issue]*, Budapest 1912. Imre Mikó, *Nemzetiségi jog és nemzetiségi politika [Nationality Law and Nationality Policy]*, Budapest 1944.

12 On the official status of the Hungarian language in Transylvania, see Judit Pál, *A hivatalos nyelv és a hivatali nyelvhasználat kérdése Erdélyben a 19. század közepén [The Question of Official Lan-*

The first piece of the series of language laws was born as a response to Joseph II's language reform of 1784 replacing Latin with German as the empire's official language. In 'Act XVI of 1790/91' the king promised that henceforth no foreign language will be used in matters of any kind. This provision confirmed the official status of Latin in governmental affairs, if only temporarily. As a concession, the king also agreed to allow Hungarian to be taught at institutions of higher learning. For this purpose he pledged to appoint Hungarian-language teachers in high schools, academies and the university in Pest-Buda.<sup>13</sup> 'Act VII of 1792 on the teaching and using of Hungarian language' ordained the teaching of Hungarian as an ordinary subject within the borders of the country, and as an extraordinary subject in the related lands, so that after a certain period of time only those persons could hold public office who possessed a certificate to prove their knowledge of the national language. However, to the request that the Royal Council of Governors respond in Hungarian to all communications of the counties which it might receive in that language, only another promise was made: a committee will present a report on this issue at the next session of the Diet.<sup>14</sup> Under Emperor Francis I's absolutist system, official use of the Hungarian language disappeared from the political agenda.<sup>15</sup> In 'Act IV of 1805', the king permitted only that addresses to His Majesty and to the Hungarian Royal Chancellery should be drawn up in Hungarian and Latin with the text arranged in columns side by side; county municipalities might write to the Governor's Council in Hungarian; court proceedings might be started in Hungarian but had to be finished in Latin at the *Curia*.<sup>16</sup> Finally, the king promised to implement the provision of the 1792 law concerning the teaching of Hungarian as an ordinary subject.<sup>17</sup> According to 'Act VIII of 1830 on the use of the national language', the Governor's Council had to respond to county municipalities in Hungarian, and the *Curia* had to decide Hungarian-language appeals in the same language. Lawsuits pending before district, county, and city courts, as well as the tribunals of the Holy See might be conducted in the Hungarian language; but the above-mentioned tribunals, in which the Hungarian language had not been used so far, might decide lawsuits in either Hungarian or Latin. The Act also prescribed Hungarian language proficiency as a requirement for holding pub-

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guage and Official Language Use in Transylvania in the Middle of the 19th Century], in: *Regio 16/1*, Budapest 2005, 3–26.

- 13 '1790/91. évi XVI. törvénycikk: hogy a nyilvános ügyek intézésére idegen nyelv ne használtassék, a magyar nyelv pedig megtartassék', in: *Corpus Juris Hungarici*, Digitalizált Törvényhozási Tudástár [Digitized Legislative Knowledge Base], Library of the Hungarian Parliament: <http://dt.ogyk.hu>. The term 'act' refers to a legislative instrument formally adopted by the Hungarian Parliament and sanctioned by the king. Translated by the author.
- 14 '1792. évi VII. törvénycikk a magyar nyelv tanításáról és használatáról', cf. *supra* n. 14.
- 15 See Gyula Székfi, *Íratok a magyar államnyelv kérdésének történetéhez 1790–1848* [Documents Concerning the History of the Question of Hungarian State Language 1790–1848], Budapest 1926, 62–104.
- 16 Traditional name for the Supreme Court of Hungary.
- 17 '1805. évi IV. törvénycikk a magyar nyelv használatáról', cf. *supra* n. 14.

lic office (this did not apply to those already being in such a position), and – after 1834 – for passing the bar examination.<sup>18</sup>

From the second half of the 1830s, there was a marked acceleration in strengthening the official status of Hungarian. 'Act III of 1836 on the Hungarian language' ordered legislative acts to be published in Latin and Hungarian, where in case of doubt the Hungarian version was to prevail. Litigation before the Royal Court of Appeal (Royal Table) could henceforth be conducted in Hungarian, and in these cases the royal court of Vienna had to decide in the same language. The act also provided for the possibility of issuing official certificates and registering births in Hungarian, and for the establishment of a Hungarian-language department at the Romanian seminary and teacher-training institute in Arad.<sup>19</sup> Pursuant to 'Act VI of 1840 on the Hungarian language', addresses of the Diet and county municipalities were henceforth to be written only in Hungarian; rescripts and circular letters of the Royal Council of Governors were to be sent out in Hungarian; county municipalities were to write to each other as well as to the ecclesiastical authorities and the Hungarian regiments in Hungarian. The Royal Court Chamber, with those county municipalities which addressed it in Hungarian, were to correspond in the same language. After a lapse of three years, all parish registers had to be kept in Hungarian, even where the language of the religious service was not Hungarian; and from that point on only Hungarian-speakers would be admitted to church service (regardless of religion).<sup>20</sup> Finally, 'Act II of 1844 on the Hungarian language and nationality' made Hungarian the exclusive language of the Parliament, legislature, courts, documents issued by the Hungarian Royal Chancellery, as well as discussions and records of the Royal Council of Governors. Croats were allowed to speak Latin in the Hungarian Diet for six further years. Hungarian was also declared to be the language of public instruction, but this was left to be dealt with by a special law.<sup>21</sup>

These language laws contained no provisions for the official use of minority languages, which eventually led to ethnic conflicts. The situation further deteriorated during the 1848/1849 revolution and war of independence since Non-Hungarian nationalities were very disappointed that the recognition of their national existence and rights was missing from the revolutionary achievements.<sup>22</sup> From among the statutes of April 1848, two touched upon the issue of language use, both referring to the Hungarian language. 'Act V of 1848 on the election of parliamentary deputies on the basis of representation of the people' imposed the knowledge of the Hungarian language as a prerequisite for passive suffrage (the right to

18 '1830. évi VIII. törvénycikk a nemzeti nyelv használatáról', *cf. supra* n. 14.

19 '1836. évi III. törvénycikk a Magyar Nyelvről', *cf. supra* n. 14.

20 '1840. évi VI. törvénycikk a magyar nyelvről', *cf. supra* n. 14.

21 '1844. évi II. törvénycikk a magyar nyelvről és nemzetiségről', *cf. supra* n. 14.

22 *Cf.* László Karus, *Nemzetiségi kérdés, nemzetiségi politika 1848–1849-ben* [Nationality Question, Nationality Policy in 1848–1849], *Kisebbségkutatás* 11/1, Budapest 2002, 66–76.



run for office)<sup>23</sup>, while 'Act XVI of 1848 on the temporary exercise of county authority' determined Hungarian as the only language of discussion at county committees and assemblies in the territory of Hungary.<sup>24</sup>

The 'Resolution of 28 July 1849 of the House of Representatives on the rights of nationalities' sought to find a solution for the nationality problem by securing linguistic rights for the free national development of every people living in the territory of the Hungarian kingdom. In matters of state, administration, justice, and the military, Hungarian as the language of diplomacy had to be used, but otherwise the freedom of language use was provided. Specifically, the act prescribed the following: during the deliberations of communities<sup>25</sup> and county municipalities, everyone could use either Hungarian or their mother tongue; records of communities could be drawn up in any language of their choice; records of county municipalities had to be drawn up in Hungarian and the language(s) of those ethnic groups which composed more than half of the population. The same rule applied to proceedings before juries and single-judge tribunals if oral proceedings took place. In elementary schools, the community or the ecclesiastical language was to be used. Petitions could be submitted in one's mother tongue anywhere. Unfortunately, the resolution on the rights of nationalities came too late, and it was never implemented because of the defeat of the war of independence.<sup>26</sup>

### The 1868 Nationalities Act and its Heritage

Although the progressive provisions of the 1849 resolution were brushed aside by imperial autocracy, its spirit did not fade away. After 20 years of having German as the official language of Hungary, the 1868 Nationalities Act as well as several previous proposals contained the very same ideas. It is important to note that most of the provisions of these documents referred to the issue of language use. The reason was that the majority of Hungarian politicians considered almost exclusively the linguistic, and to a lesser degree, religious aspects of the nationality ques-

23 '1848. évi V. törvénycikk az országgyűlési követeknek népképviselőlet alapján választásáról', *cf. supra* n. 14.

24 '1848. évi XVI. törvénycikk a megyei hatóság ideiglenes gyakorlatáról', *cf. supra* n. 14.

25 *I.e.* local municipalities/localities/settlements/villages not having a status of a city. In the traditional Hungarian meaning of the word, municipality [törvényhatóság] as the governing body of an administrative division having corporate status was used only for counties and cities. Therefore in this paper the term community [község] will be used when referring to the local level of administration. Note that in this sense community means something else than a group of people living in the same place or having a particular characteristic in common.

26 'A képviselőház határozata a nemzetiségek jogairól Szegeden', in: Sándor Balogh (Ed.), *A magyar állam és a nemzetiségek. A magyarországi nemzetiségi kérdés történetének jogforrásai 1848–1993* [The Hungarian State and the Nationalities. Legal Sources of the History of the Nationality Question in Hungary 1848–1993], Budapest 2002, 43f. The resolution would have become Act VIII of 1849 if sanctioned by the king which never happened.

tion.<sup>27</sup> However, the representatives of the biggest nationality groups had already expressed the need for political or territorial autonomy as early as 1848/1849.<sup>28</sup>

The '1861 report of the House of Representative's committee on the nationalities question' identified two basic principles: on the one hand, that 'all citizens of Hungary regardless of the language they speak form politically one single nation, the indivisible and unitary Hungarian nation corresponding to the historic notion of the Hungarian state', on the other, that 'all the peoples living in the country [...] are considered as nationalities of equal rights'. According to the report, community and county assemblies were to decide on the language of administration but the local minority could also demand the use of its own language. The bill did not use the term 'state language', instead it referred to Hungarian as the administrative language of the Parliament and state authorities.<sup>29</sup>

The Parliament was unable to debate the bill due to its dissolution. Reopened in December 1865, the Parliament commissioned a 40-member committee to draft a nationalities bill in April 1866. The committee appointed a five-member sub-committee to draw up the text of the specific provisions. In February 1867, Romanian and Serb deputies presented their common draft to this sub-committee which recognized the six largest historic peoples of the country, namely Hungarians, Romanians, Serbs, Slovaks, Rusyns, and Germans as nations of equal rights (other ethnic groups, such as Slovenes, Croats, Greeks, *etc.* were disregarded). For the purposes of the representation of every nationality and to define the scope of languages, the minority proposal envisaged the rounding-off of counties and districts on the basis of the majority rule so that they would mainly be composed of one nationality. Deputies of nationalities were to be allowed to address the Parliament in their own language.<sup>30</sup>

'The Proposal of June 1867 of the sub-committee commissioned on the nationalities question', based on the compromissory principles of Eötvös, intended to ensure free language use in every forum of public life. In the lower and mid-levels of administration, the majority language was to be used along with the languages of nationalities above one-fifth of the population. The proposal did not contain any reference to the Hungarian political nation and continued to designate the Hungarian language as the administrative language of the government.<sup>31</sup> The proposal of the sub-committee stirred protest in radical Hungarian public opinion, especially among county assemblies and in the nationalist press, for being too liberal. More than a year passed before a new bill was prepared with considerable changes

27 There are counterexamples, as well: Eötvös, for instance, was a well-known advocate of self-government.

28 Katus, *Nemzetiségi kérdés*, 70f.

29 'Az 1861. évi képviselőházi nemzetiségi bizottság jelentése', in: Balogh, *A magyar állam*, 47–49.

30 'A nemzetiségi képviselők törvényjavaslata a nemzetiségi jogokról', *ibid.*, 51–53.

31 'A nemzetiségi ügyben kiküldött albizottság 1867-es javaslata', *ibid.*, 54–58. There is only one allusion to 'the official language of the state', in Article 12, which must have remained in the text by accident.

to the text of June 1867.<sup>32</sup> The proposal of October 1868 of the 40-member nationalities committee put considerable emphasis on the official language of the state in mid-level administration as well. The official language of county municipalities was to be Hungarian, but records could also be kept in the languages of nationalities making up at least one-fifth of the population. The central drafting committee adopted the proposal of the nationalities committee almost unchanged.<sup>33</sup> The Nationalities Bill was discussed from 24 November to 4 December 1868 along with the minority proposal of February 1867. Ferenc Deák also presented his own alternative bill that, in addition to a few minor modifications in content and structure, differed in one significant point from the bill of the drafting committee: it returned to the concept of a single political nation used in the 1861 proposal. After a thunderous debate and despite nationalities' firm protest, the Nationalities Bill was passed on the basis of Deák's proposal.<sup>34</sup>

'Act XLIV of 1868 on the equal rights<sup>35</sup> of nationalities' declared in its preamble that 'all citizens of Hungary [...] form politically one nation, the indivisible unitary Hungarian nation, of which every citizen of this homeland is a member of equal rights, regardless to what nationality they belong [...]. [T]his legal equality may be subject to special rules concerning only the official use of the various languages of the country, and only in so far as is rendered necessary by the unity of the country, the practical possibility of government and administration, and the accurate administration of justice'.<sup>36</sup> Since the Nationalities Act clearly indicated that the regulations set out therein concerned the official use of the various languages, and since almost all of its provisions referred to the use of languages, it is obvious that it should be considered a language law.<sup>37</sup>

32 László Katus – József Eötvös – Ferenc Deák, *Laws on Nationalities*, in: Ignác Romsics – Béla K. Király (Eds.), *Geopolitics in the Danube Region. Hungarian Reconciliation Efforts 1848–1998*, Budapest 1999, 133–160, here 150.

33 Gábor G. Kemény (Ed.), *Iratok a nemzetiségi kérdés történetéhez Magyarországon a dualizmus korában 1867–1918, I. kötet* [Documents Concerning the History of the Nationality Question in Hungary during the era of Dualism 1867–1918], Budapest 1952, 106–111.

34 *Ibid.*, 125–162.

35 A loan-translation of the German word *Gleichberechtigung* [in Hungarian: *egyenjogság*]. Other scholars prefer to translate the title of the law as 'the equality of nationalities' or 'the equality of nationality rights'.

36 '1868. évi XLIV. törvénycikk a nemzetiségek egyenjogság tárgyában', cf. *supra* n. 14.

37 The Nationalities Act did not apply to Croatia since issues related to public law between Hungary and Croatia were arranged by a separate act on the enactment of the Croatian-Hungarian settlement (i.e. '1868. évi XXX. törvénycikk a Magyarország s Horvát-, Szlavon- és Dalmácországot közt fennforgott közjogi kérdések kiegyenlítése iránt létrejött egyezmény becsikelyezéséről'). Provisions concerning language use were the following: the coronation charter had to be issued in the Croatian language, as well (Art. 2); in the territory of Croatia, the language of legislature, administration, justice and the common government was Croatian (Art. 56–57); proposals and submissions in Croatian-Slavonic were to be accepted and replied to in the same language by the common government (Art. 58); in the common Parliament and its delegations, the Croatian language could also be used (Art. 59); statutes enacted for Croatia by the common legislature were to be issued in Croatian, as well (Art. 60). Cf. *supra* n. 14.

Although the Nationalities Act stipulated that the state language of Hungary is Hungarian, it ensured an extensive use of the languages of other nationalities in every forum of public life. One of the most important individual rights was that all citizens could address their respective community, county and church meetings and submit petitions to these authorities in their own language. Another significant provision referred to public employment: 'ability remains the only guiding principle for holding offices, and nationality status will not be considered an obstacle to rising to any office or position in the country. Moreover, the state government will make sure that in the national offices of judges and public administration, and especially the offices of Lord-Lieutenants, as much as possible, persons belonging to various nationalities will be employed who are perfectly proficient in the required languages and are otherwise suitable' (Art. 27).<sup>38</sup>

Detailed rules of the Nationalities Act can be grouped into five major areas: (1.) Legislature: The official language of the Parliament – including parliamentary debates and administration – was to be Hungarian. Laws were to be drawn up in Hungarian but also published in the languages of every nationality. (2.) Government: The official language of the government was to be Hungarian. All citizens could address the government in their mother tongue, and in response to these petitions, the government had to issue an authentic translation of the original Hungarian-version decision as well. (3.) County and city municipalities: The language of record and internal administration was to be Hungarian, plus any other language desired by one-fifth of the deputies. As much as possible, officials of municipal authorities were to use the language of their clients during official interactions with communities, individuals and associations. (4.) Communities were to have the right to choose the language of their records and internal administration (community language). In addition to this language, any other language had to be used if one-fifth of the deputies so desired. Officials of local authorities were obligated to use the language of their clients. (5.) Justice: Before community courts, everyone had the right to use their own language. Before district courts, (one of) the community language(s) could be used. Interrogation and any other judicial actions were to be conducted in the language of the parties/the interrogated person. Records of the trial and sentences were to be written in one of the languages of the respective county municipality. The official language of courts appointed by the state government (*i.e.* appellate and higher courts) was to be Hungarian. Church courts could decide about their own language of administration. (Church autonomy was secured in other areas as well.)<sup>39</sup>

Since education was to be regulated by a specific law, the Nationalities Act provided only a framework prescribing that it belonged to the duties of the Minister of Education to ensure that citizens of the same nationality living together in considerable numbers were to be able to obtain instruction in their mother tongue, be-

38 Translation of this provision is based on Katus, József Eötvös, 154.

39 Cf. *supra* n. 38.

low the level of higher (academic) education. As before, private individuals, associations, churches and communities of any nationality had the right to establish and run schools.

As we have seen, according to the Nationalities Act of 1868, the official use of the languages of non-Hungarian nationalities was legally ensured at all levels of the public sphere. This principle was reinforced by additional pieces of legislation, which touched upon areas regulated by the 1868 law.<sup>40</sup> Even if we do not go as far as stating that in light of these provisions Hungary actually had not only one but several state languages<sup>41</sup>, we must certainly agree with Katus in that the Nationalities Act 'was an outstanding creation of Hungarian and East Central European liberalism'.<sup>42</sup>

### Language Use in Education

According to the 'Act XXXVIII of 1868 on public education' (submitted by then Minister of Education Eötvös), 'every pupil shall receive instruction in their mother tongue as long as it is among the predominant languages of the community. For this reason, mixed communities shall employ teachers who are able to teach in the predominant languages. In populous communities, where a great number of speakers of various languages live together, so far as the community can afford, assistant teachers of different languages will also be employed.' Provision for mother-tongue education applied to elementary (6–12 years) and higher (12–15 years) public schools, and so-called civic schools alike. Furthermore, in non-Hungarian higher public schools, civic schools, and teacher training institutions, the Hungarian language became a compulsory subject.<sup>43</sup>

40 'Act IV of 1869 on the exercise of judicial power' (1869. évi IV. törvénycikk a bírói hatalom gyakorlásáról, *cf. supra* n. 14.) separated jurisdiction from public administration. It prescribed that when appointing judges to lower courts special attention should be given to the fair consideration of candidates of different nationalities living in the judicial district concerned (Article 4). One of the conditions of eligibility for judicial office was being able to meet the requirements of the Nationalities Act (Article 6). The same provision applied to prosecution officials and public notaries in accordance with 'Act XXXIII of 1871' (1871. évi XXXIII. törvénycikk a királyi ügyészségről, *cf. supra* n. 14.), Article 15, and 'Act XXXV of 1874' (1874. évi XXXV. törvénycikk a királyi közjegyzőkről, *cf. supra* n. 14.), Article 2, respectively. 'Act XLII of 1870' (1870. évi XLII. törvénycikk a köztörvényhatóságok rendezéséről, *cf. supra* n. 14.), Article 68, then 'Act XXI of 1886' (1886. évi XXI. törvénycikk a törvényhatóságokról, *cf. supra* n. 14.), Article 82, on municipalities, and 'Act XXII of 1886 on communities' (1886. évi XXII. törvénycikk a községekről, *cf. supra* n. 14.), Article 77, stated that the provisions of the Nationalities Act should also be considered when appointing municipal and community officials. Out of the above-mentioned public offices, only notaries were expressly required to be proficient in the official language of the state.

41 György Andrásy, *Nyelvszabadság. Egy egyetemes elismerésre váró egyetemes emberi jog* [Freedom of Language. A Universal Human Right to be Universally Recognized], Budapest/Pécs 2013, 176f.

42 Katus, József Eötvös, 157. Most scholars agree on that even if the elaborate provisions of the 1868 Nationalities Act 'were the most advanced such measures ever enacted in Europe', they were not properly implemented in practice. However, we lack detailed research on this issue. *Cf.* Robert John Weston Evans, *Language and State Building. The Case of the Habsburg Monarchy*, in: *Austrian History Yearbook* 35, Minneapolis 2004, 1–24, here 17.

43 '1869. évi IV. törvénycikk a bírói hatalom gyakorlásáról', *cf. supra* n. 14.

It was only a decade later – pursuant to ‘Act XVIII of 1879 on the teaching of the Hungarian language in public educational institutions’ – that Hungarian as a compulsory subject was prescribed in elementary schools as well. For this purpose, the law defined the required level of knowledge of the Hungarian language in the case of non-Hungarian teacher training, as well: in teacher training institutions, the Hungarian language should be taught in a number of lessons so that throughout the course every teacher candidate could acquire it in speech and writing. After 1882, only those could be appointed as schoolteachers who had a sufficient command of the Hungarian language both orally and in writing for being capable of teaching it. Provision for the education of the Hungarian language in elementary schools had to be put in place gradually: teaching of Hungarian had to be started in the year after the coming into force of the act in schools, in which there was a teacher capable of teaching the Hungarian language; in other places, only when a teacher capable of teaching Hungarian would be employed – that is, in 1882 the earliest.<sup>44</sup>

Teaching ‘of (or rather in)’ the state language was a common practice in contemporary Europe. In this respect, the education laws of 1868 and 1879 fit well into the liberal framework of linguistic legislation in Hungary in the middle of the 19th century. The image becomes more obscure when considering that the government did not give permission to open new secondary schools for the nationalities and closed a few of the existing ones. By dissolving three Slovak secondary schools in 1874–1875, mother-tongue secondary education for the Slovaks was eliminated completely.<sup>45</sup> This is reflected in the series of ministerial decrees<sup>46</sup>, trying to enforce the implementation of the education law over 25 years. In the introduction to an 1885 decree by the Minister of Religion and Public Education Ágoston Trefort (1817–1888), ‘Act XVIII of 1879 ordered the compulsory teaching of the Hungarian language in all public education institutions, and although [...] in my circulars I have repeatedly taken measures towards the correct implementation of the act, school owners quite often neglect the definite provisions of the law when it comes to employing teachers or including the Hungarian language in the curriculum’.<sup>47</sup>

Teaching of the Hungarian language was further extended to secondary (Act XXX of 1883) and pre-primary (Act XV of 1891) education, which met fierce resistance on the side of non-Hungarian nationalities. The act on secondary education prescribed the teaching of the Hungarian language as an ordinary subject in secondary schools (Articles 3–4). School completion certificates had to be issued

44 ‘1879. évi XVIII. törvények a magyar nyelv tanításáról a népoktatási tanintézetekben’, *cf. supra* n. 14.

45 Balogh, *A magyar állam*, 11, 102.

46 These were issued in 1879, 1882, 1883, 1885, 1890, 1902 and 1905 (two in 1882 and 1905).

47 Trefort Ágoston vallás- és közoktatásügyi miniszter valamennyi kir. tanfelügyelőséghez, egyházi főhatósághoz és közigazgatási bizottsághoz intézett 20301/1885. sz. rendelete [Decree no. 20301/1885 of Ágoston Trefort, Minister of Religion and Public Education, to all royal school inspectorates, ecclesiastical authorities, and administrative committees], in: Balogh, *A magyar állam*, 122–124.

in Hungarian, accompanied by a translation upon request in the language of instruction of the given school or in Latin (Article 22). The language of examination for acquiring a secondary school teacher's certificate was Hungarian, but the Minister of Education could give exemptions for ten years (Article 70).<sup>48</sup> The Act on pre-primary education prescribed that children of three to six years having a non-Hungarian mother tongue had to be introduced to the knowledge of Hungarian as the state language (Article 8). It followed from this that kindergarten teachers and nurses were required to be proficient in Hungarian (Article 12).<sup>49</sup>

Although none of the educational statutes contained provisions for the 'language of instruction', in the second half of the 19th century, there was a perceptible shift in the proportion of Hungarian monolingual, nationality and mixed language (*i.e.* Hungarian and a nationality language in parallel classes) schools. Data concerning the distribution of elementary schools according to the language of instruction are as follows: in 1869, 42.2 percent Hungarian, 47.3 percent nationality language, and 10.5 percent mixed; in 1890, 53.5 percent Hungarian, 29.5 percent nationality language, and 17 percent mixed; in 1901/1902: 62 percent Hungarian, 19 percent nationality language, and 19 percent mixed.<sup>50</sup> The increase in the proportion of Hungarian monolingual schools can be explained by, among other things, socio-economic factors (not dealt with here) and school funding policy. Every attempt was made to avoid overt discrimination, but in certain cases the law permitted state intervention, which was especially prejudicial to the schools of non-Hungarian nationalities. For example, pursuant to 'Act XXVI of 1893 on the arrangement of the salaries of teachers working in community and denominational elementary schools', receiving state aid possibly entailed state intervention in the course of employing teachers or conducting disciplinary proceedings against them. Disciplinary proceedings could be conducted for example against teachers following an anti-state direction that meant, *inter alia*, misconduct against the use of the state language as specified by law (Article 13).<sup>51</sup>

As previously mentioned, provisions for the teaching of Hungarian were improperly executed in spite of repeated ministerial appeals. The Minister of Education Albert Berzeviczy (1853–1936) pointed out in his reasoning attached to a 1904 bill submitted by him that 'there are hardly any Hungarian-speakers among those pupils who attended denominational schools having a non-Hungarian language as the sole language of instruction', and 'we have 1340 public elementary schools where teaching of the Hungarian language did not take place' (data for the 1901/02

48 '1883. évi XXX. törvénycikk a középiskolákról és azok tanárainak képzéséről', *cf. supra* n. 14.

49 '1891. évi XV. törvénycikk a kisdóváztról', *cf. supra* n. 14.

50 Balogh, *A magyar állam*, 173f. *Cf.* also László Marácz, 'Multilingualism in the Transleithanian Part of the Austro-Hungarian Empire (1867–1918). Policy and Practice', in: *Jezikoslojje* 13/2, Osijek 2002, 269–298, here especially 285–287.

51 '1893. évi XXVI. törvénycikk a községi, valamint a hitfelekezetek által fenntartott elemi iskolákban működő tanítók és tanítónők fizetésének rendezéséről', *cf. supra* n. 14.

Academic Year).<sup>52</sup> The government decided that it was time for firm action. The intelligentsia of non-Hungarian nationalities greeted Berzeviczy's bill with strong aversion, and although it did not become law due to the fall of István Tisza's government, a substantial part of its content was included into the act named after the future Minister of Education Count Albert Apponyi (1846–1933).<sup>53</sup>

The infamous *Lex Apponyi* ('Act XXVII of 1907 on the legal relations of non-state elementary schools and on the salaries of teachers in communities and denominations') intended to improve the financial conditions of schoolteachers (and it actually did so), however, state aid entailed significant control and intervention. For example, teachers could get fired if they neglected the teaching of the Hungarian language, or followed a tendency considered hostile towards the State. The main linguistic rules of the act are included in Articles 18–19: in denominational schools, Hungarian-speaking pupils were to be instructed in Hungarian if they composed 20 percent of the class. If they composed more than 50 percent, Hungarian was prescribed as the language of instruction for all children. In non-Hungarian elementary schools, whether in receipt of state aid or not, pupils had to be taught the Hungarian language in the manner and for the time prescribed by the minister, so that children of non-Hungarian mother tongue on the completion of their fourth school year could express their thoughts comprehensibly in Hungarian both in speaking and writing. The act also ordered that wherever Hungarian had already been introduced as the language of instruction, the *status quo* could never be changed, and that in all continuation schools Hungarian had to be the language of instruction.<sup>54</sup>

The parliamentary debate of *Lex Apponyi* stimulated huge protests even outside the walls of Parliament. Yet, the implementation of the law began immediately after its passage, and further fueled the conflict between Hungarians and the other nationalities of the Kingdom.<sup>55</sup> In 1914, the new Minister of Education made some concessions to calm the turbulent atmosphere: He requested church authorities to use the pupils' mother tongue as the language of the catechism<sup>56</sup>; furthermore, he provided for the use as an auxiliary language and the teaching as a subject of nationalities' languages in state (!) elementary schools, *i.e.* in those schools where the language of the instruction was obligatorily Hungarian.<sup>57</sup> Of course, non-Hun-

52 Out of the 17 299 elementary schools 3343 (19 percent) had a nationality language as the sole medium of instruction, and 97 percent of these (3249 schools) were maintained by church denominations. Cf. Balogh, *A magyar állam*, 173f.

53 *Ibid.*, 175.

54 '1907. évi XXVII. törvénycikk a nem állami elemi népiskolák jogviszonyairól és a községi és hitfelekezeti néptanítók járandóságairól', cf. *supra* n. 14.

55 *Ibid.*, 199f.

56 A m. kir. vallás- és közoktatásügyi miniszter 1914. évi 1797. eln. sz. megkeresése valamennyi főtisztelendő egyházi főhatósághoz a hitoktatás nyelvéről a népoktatási tanintézetekben [Request no. 1797/1914 of the Hun. Royal Minister of Religion and Public Education to all honorable ecclesiastical authorities on the language of religious instruction in public schools], in: *ibid.*, 205.

57 A m. kir. vallás- és közoktatásügyi miniszter 1914. évi 114 000. sz. rendelete (utasítása) az állami elemi népiskolákban a nem magyar anyanyelvnek kiegészítő nyelvként való felhasználásáról, és mint



garian nationalities were also entitled to manage their own schools with their own language as the language of instruction. Although it was already too late to change the course of events, the intent and content of these regulations are commendable.

### Further Legislation on Language Use

So far the most important pieces of legislation that determined most domains of language use have been discussed. These are the Nationalities Act of 1868, which remained in force during the whole period of Dualism, and a series of education laws. A few statutes remain to be examined which are less frequently mentioned in scholarship but are equally important in order to have a complete picture of linguistic legislation in Dualist Hungary. 'Act V of 1890' on the Hungarian army designated Hungarian (in Croatia, Croatian) as the language of military service and command (Article 18).<sup>58</sup> 'Act IV of 1898 on the names of communities and other localities' decreed that every locality was to have only one official name to be established by a special committee under the supervision of the Ministry of Interior.<sup>59</sup> Even though it was not set out that the official name must be Hungarian, in practice, in the case of bi- or multilingual communities, this rule prevailed.<sup>60</sup> 'Act XLIX of 1907 on the rules of the railway service' determined Hungarian as the official language of railway service. From then onwards only those people were to be employed by Hungarian railroad companies who had command of the Hungarian language.<sup>61</sup> Circular no. 152 635/1907 of the Minister of Interior required county officials who were 'in continuous and regular contact with the people [...] to have a command of the language of the population of the respective district, or at least to have such a level of language proficiency that they are able to freely communicate with the people'.<sup>62</sup> 'Act XXXVIII of 1908' on public health required the oral and written command of the Hungarian language from city, community, and district physicians, but also obligated them to acquire the language spoken by the majority of the population in the area of their activities, at least to the extent nec-

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tantárgynak tervező tanácsáról [Decree (order) no. 114 000/1914 of the Hun. Royal Minister of Religion and Public Education on the use as an auxiliary language and the systematic teaching as a subject of non-Hungarian mother tongues in state elementary schools], in: *ibid.*, 206–209.

58 '1890. évi V. törvénycikk a honvédségről', *cf. supra* n. 14.

59 '1898. évi IV. törvénycikk a község- és egyéb helynevekről', *cf. supra* n. 14.

60 Iván Kápolnai, A történeti Magyarország városainak és községeinek névváltozatai az Országos Községi Társaskönyvbizottság iratanyaga alapján (1898–1913) [Name Variations of Towns and Communities in Historic Hungary According to the Archives of the National Committee on Municipal Registers (1898–1913)], in: *Statistikai Szemle* 75/8–9, Budapest 1997, 767–770.

61 '1907. évi XLIX. törvénycikk a vasúti szolgálati rendtartásról', *cf. supra* n. 14.

62 A m. kir. belügyminiszter 1907. évi 152 635. sz. körrendelete valamennyi vármegyei törvényhatósághoz a vármegyék járási tisztviselőitől megkívánandó nyelvismeretről [Circular no. 152 635/1907 of the Hun. Royal Minister of Interior to all County Municipalities on the Language Knowledge Required from District Officials of the Counties], in: Balogh, *A magyar állam*, 201.

essary to comply with their medical profession (Article 7).<sup>63</sup> Pursuant to 'Act I of 1911 on the Code of Civil Procedure' the language of the judiciary uniformly became Hungarian; this was not expressly declared but clearly follows from the linguistic rules of the act. It was guaranteed that whenever a non-Hungarian speaking person was to be interrogated, an interpreter should be used (Article 229).<sup>64</sup> To summarize, part of the above-mentioned legislative instruments aimed at further establishing and securing the position of Hungarian as the state language, while others (including the educational decrees of 1914) ensured language rights for nationalities. This fact points to the ambivalent nature of Hungarian governments' nationalities policy at the end of Dualism.

### Concluding Remarks

In Hungary, in contrast to some Western European countries, we do not find a single piece of legislation dealing with the official status or use of Hungarian (or any other language) from the establishment of the Kingdom to the end of the 18th century. The language of public administration was *de facto* Latin before the country became part of the Habsburg Empire in the 16th century, and after that Latin with two brief interludes of German. In the meantime, the peoples of Hungary were free to use their native languages in their daily lives. The first legislative instrument which can be considered as the embodiment of a proper language policy was probably Emperor Joseph II's order of 1784 making German the official language of public administration. Here began the struggle for the introduction of Hungarian as the official language of the state which happened step by step during the first half of the 19th century, encountering great resistance from the other ethnic groups within the Kingdom of Hungary.

Amid power struggles with the Austrian monarchy along with the rise of Hungarian nationalism, the devotion for securing the official status – and later on, the primacy – of the Hungarian language is understandable. However, the protest of other nationalities against Hungarian as the 'sole' official language of the country (enacted in 1844) is also justifiable considering that in the middle of the 19th century, out of 13 million inhabitants, only 5.4 million people, *i.e.* about 40 percent of the population were ethnic Hungarians. The remaining 60 percent consisted of 2.5 million Romanians, 1.8 million Slovaks, 1.5 million Germans, 1 million Serbs, 0.5 million Ruthenians, and 0.5 million other nationalities.<sup>65</sup>

There is no doubt that the Hungarian Nationalities Act 1868 was unique in contemporary Europe because, in addition to the state language, the languages of non-Hungarian nationalities were also permitted in the public space (and in pri-

63 'A közegészségügy rendezéséről szóló 1876:XIV. tc. II. rész I. fejezetének (Közegészségügyi szolgálat a községeknél) módosításáról', *cf. supra* n. 14.

64 '1911. évi I. törvénycikk a polgári perrendtartásról', *cf. supra* n. 14.

65 *Ibid.*, 5.

vate life as well). To be precise, their official use was not only permitted, but legally ensured at all levels of public sphere. No wonder that Arthur May described the Nationalities Act as 'one of the most enlightened measures of its kind ever adopted'.<sup>66</sup> Positive values of the law were later recognized by originally protesting minority deputies as well. The problem was not with the law itself but with its improper execution<sup>67</sup> and that compared to such an exemplary regulation, everything else that followed could only be a step back. As Cieger pointed out, 'while the law of 1868 was intended by its creators (Eötvös, Deák) to be the starting point of a process, it was actually one of the last stages of the great liberal reform momentum preceding the [Austro-Hungarian] Compromise'.<sup>68</sup>

As for education law, other nationalities considered the introduction of the teaching of Hungarian as a serious violation of their equal rights. Thus, Hungarian education law from 1879 onwards might be a step back from the liberal regulations of 1868, nevertheless, it – including the controversial *Lex Apponyi* – still ensured significantly more language rights than education laws of contemporary Western European states.

66 Arthur May, *The Habsburg Monarchy, 1867–1914*, Cambridge 1965, 83. Cited by László Péter, Law XLIV of 1868 'On the Equality of Nationality Rights' and the Language of Local Administration, in: Miklós Lojtkó (Ed.), *Hungary's Long Nineteenth Century. Constitutional and Democratic Traditions in a European Perspective. Collected Studies of László Péter, Leiden/Boston 2012*, 343–354, here 343.

67 Balogh, *A magyar állam*, 9f., 95. It is important to note however, that since implementation of the law mainly belonged to autonomous municipal, communal and parish bodies, the situation varied from county to county and from community to community. Katus, József Eötvös, 156f.

68 András Cieger, *Liberalizmus és hatalmi érdek. A szabadságjogokra vonatkozó politikusi dilemmák a dualizmus kori Magyarországon [Liberalism and Power Interests. Politicians' Dilemmas on Rights and Freedoms in Hungary during the Era of Dualism]*, in: *Magyar kisebbség 14/1–2*, Kolozsvár 2009, 81–92, here 92.