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## Righting Wrongs? Problems of Protecting National Minorities in East-Central Europe

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*Annales Universitatis Mariae Curie-Skłodowska. Sectio K, Politologia 8, 157-169*

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2001

Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej [bazhum.muzhp.pl](http://bazhum.muzhp.pl), gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

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ANNALS  
UNIVERSITATIS MARIAE CURIE-SKŁODOWSKA  
LUBLIN – POLONIA

VOL. VIII

SECTIO K

2001

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Zakład Praw Człowieka  
Wydział Politologii UMCS

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*Righting Wrongs? Problems of Protecting National Minorities  
in East-Central Europe*<sup>1</sup>

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Poprawiać za pomocą praw? Problemy ochrony mniejszości narodowych  
w Europie Środkowej

In the new democracies of East and Central Europe, the debate over the status of national minorities has focused on “minorities’ rights”. Both on the national and international levels new legal documents and instruments were introduced to secure these rights. Countless NGOs dealing with minorities rights were created. The minorities’ rights became a part of the political agenda of political parties and social movements, became an issue *de jour* in the media. A number of conflicts involving the status of national minorities have sprouted up throughout the region.

My paper has three goals. First – it is an attempt to summarize the main trends in the political debate over the rights of national minorities in the post-communist democracies. It focuses on Central-Eastern Europe that is on Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland and Slovakia as the countries which are more advanced in the process of institutional and legal transformation. Second – the paper will briefly review dilemmas of the institutionalization of the national minorities status as well as some legal and political instruments available to national minorities in these countries to see how the political debate over national minorities rights have actually changed their status. Third – the paper will conclude with some propositions concerning relations between political and legal institutionalization of national minorities and the construction of national identities in East-Central Europe after 1989.

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<sup>1</sup> The lecture delivered at the Conference *Constructing Identities: National Minorities in the “New” Europe* organized in Nov. 1999 by the Centre of Studies on Russia, Central and East Europe of Rutgers University (USA).

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RIGHTS FOR NATIONAL MINORITIES IN EAST-CENTRAL EUROPE – MAIN POINTS  
AND QUESTIONS IN THE DEBATE

I am not (or not only) talking here about formal parliamentary debates, which took place in most post-communist countries during the constitutional or legislative process. Rather, I am trying to summarize the main trends in the public debate that took place in all the states mentioned above, both in formal and informal fora; as well as the debate that took place among national minorities, their leaders, policy makers, human rights activists and lawyers.

There are three groups of questions to be posed (and answered) during the debate over the status of national minorities in the new democracies of East-Central Europe.

First comes questions about actual mode of protection, that is, about the choice between individual and collective rights models of protection or more realistically – about the balance between the two models in the actual policies of the state. There is a duality of known and practiced models of legal protection of national minorities. The first one is based on the non-discrimination principle and gives every individual (or every citizen in case of some legal systems) the right not to be discriminated against because of her/his nationality, ethnicity or language. The second model is based on rights granted to the groups that share distinctive national, ethnic or linguistic features that partake in their concept of group identity (so called collective rights). Both models of legal and institutional arrangements have their historical traditions. Each has its disadvantages and strong points. They are not inherently antagonistic, so most East-Central European governments and national minorities opt for some sort of combination of the two. Finding the balance between them seems to require very long, difficult and not always successful negotiations between minority and majority groups.

The second group of questions is about level of minorities' protection (international, regional, national or local) and the relations between them. This is connected with the development of the local governments and local politics in East-Central Europe and with the possibilities of addressing the national minorities' problems on the local level. At the same time a considerable part of the debate is about the role of international law and standards in the protection of minorities on national level. These issues are particularly sensitive in Eastern and Central Europe where state sovereignty is still seen as very fragile. Positive opinions about the system of protection based on the supremacy of international law are sometimes countered by those who suggest the idea of constructing regional, consensual solutions to the question of how to protect minorities. They argue that this approach should soften the present reluctance of many governments to adhere to the universal construction of the national minorities rights, and thus bring under protection many groups that are not even recognized as minorities now. This part of the debate has also included considerations about

feasibility and scope of autonomy (be it territorial or cultural) for minorities, and about regionalization as a means of securing national minorities rights.<sup>2</sup>

Thirdly, the debate concerns the concept of citizenship in post-communist democracies of East-Central Europe. This theme was very evident during the constitutional proceedings in many new democracies. Here very difficult questions arise about how to accommodate national minorities needs in the states where national state building is a core dynamic.

#### DILEMMAS OF THE INSTITUTIONALIZATION OF THE NATIONAL MINORITIES STATUS

The states of East-Central Europe present mosaic of institutional solutions to the problem of national minorities, their political practices are very diversified as are forms of activities among the minorities themselves. It seems too early to speak of the emerging model of regulating the national minorities status in that region of Europe. In all these newly constituted and/or democratized states the process of shaping minorities status is still in progress. It would be risky to say that this process will lead to the development of one model of national minorities protection that is "typical" of this part of the European continent and typical of the post-communist states. The differences are due to the varying number and size of the minorities; whether or not there is a diaspora of the state-forming nation; the scope and intensity of the historical conflicts and grievances; the activities and the political agenda of national minorities, the extent of trans-border minorities; and the level of internal organization of national minorities in the respective states. The most important factor, on the other hand, is the crystallization of the international standards regarding national minorities within Council of Europe and UN in the 90-ties.

Development of the status of national minorities' in Central Europe shows several tendencies.

Every Central and Eastern European state has national minorities but their situation differs greatly in number, size, diversity of ethnic and national groups in the country. We see it clearly comparing such minorities as Roma in practically all of Central and Eastern Europe, Russians in the Baltic states, Hungarians in Slovakia, Romania as well as in Vojvodina and Ukraine, Poles in Ukraine, Belarus and Lithuania, Ukrainians and Lithuanians in Poland, Germans in Poland and Czech Republic and Romania; Turks in Bulgaria, Serbs in Croatia and Bosnia. These minorities are not only different demographically and culturally, with a different history, but their number, mobilization and internal

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<sup>2</sup> See e.g. J. Plichtova (ed.), *Minorities in Politics. Cultural and Language Rights*, The Bratislava Symposium II, Bratislava 1992

organization are very different. They make different demands on the states in which they live and have different possibilities of applying political pressure to exert these demands. On the other hand, attitudes of national majorities versus minority groups in these countries create varied political environments for the introduction of a system of national minorities rights. All of these needs to be taken under consideration when looking for the model solutions in the Central and Eastern Europe.<sup>3</sup>

The status of national minorities is shaped not only by institutional developments, but also by attitudes of the public and politicians in these countries, by the policies of the government, and by the attitudes and aspirations of the minorities. We should remember that minority issues are usually part of much bigger political picture. Some governments might give them priority not (or not only) out of respect for minorities' rights but because of other reasons. A good example was a very prompt nomination of ethnic Hungarian politician Pal Csaky for the office of Minister for Minorities and Human Rights by the Slovak Prime Minister Mikulas Dzurinda in 1998. This nomination was not only connected with participation of the ethnic Hungarian party in the government coalition but also indicates recognition by the new Slovak cabinet that a poor record in national minorities policies was one of the reasons Slovakia was not included in the first group of future members of EU. In other cases governments give broad rights to minorities in their own country hoping for reciprocity vis à vis their diaspora in other countries. Entrance into Council of Europe was another reason why a lot of post-communist countries (Slovakia, Estonia, Romania, Bulgaria) were determined to improve standards of national minorities protection.

The status of national minorities depends also on the general human rights infrastructure in a given state. Such institutions as constitutional review, civil rights (most notably right to association, freedom of speech, right to a constitutional petition by citizens) developed public interest law and a dew process of law have a decisive influence on the situation of persons belonging to all minorities. If the institutions are strong and effective, they can counterbalance discrimination against minorities. Unfortunately, in post-communist societies lack of respect for the law has become rampant; many courts have proven partial, politicized or/and inefficient. Many lawyers have not been trained in or are not interested in human rights law.<sup>4</sup>

On the other hand, we can see a strong influence exerted by international laws and standards on the national regulations emerging within every state in Central

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<sup>3</sup> J. F. Brown, *Hopes and Shadows. Eastern Europe after Communism*, Duke UP, Durham 1994, pp. 172–229.

<sup>4</sup> See D. Petrova, *Political and legal obstacles to the development of public interests law*, "East European Constitutional Review" 1996, vol. 5, no. 4.

and Eastern Europe. Standards of minorities' protection within the Council of Europe (especially Framework Convention on the Rights of Minorities), UN (Declaration on Rights of Persons belonging to National, Ethnic, Religious and Language Minorities) and OSCE (Copenhagen Document) are the basis for constitutional provisions, and for parliamentary acts and government regulations concerning minorities. We can safely say that Council of Europe as well as UN and OSCE standards were used as a common denominator in both internal legislation and bilateral and regional treaties throughout East-Central Europe. Membership in the Council of Europe had an immense effect on the human rights law in these countries. One of many examples is Czechoslovakia drafting constitutional Bill of Rights to make its laws comply exactly with the Council's standards. Generally, in all the countries of the region we can see the very strong influence of Council of Europe legal standards; not only the Framework Convention on Protection of National Minorities, but first of all the European Convention of Human Rights.<sup>5</sup> In some countries like Slovakia and the Baltic States pressure from the Council of Europe in the form of recommendations had a decisive influence in the improving the status of minorities, especially language laws. At the moment similar mechanism is used to improve the situation of national minorities in the states negotiating their entry into the European Union (e.g. Czech Republic and the situation of Czech Roma).

The common feature of minority's situation in the East-Central European states is very important role of bilateral agreements between neighboring countries containing provisions on protection of minorities. Bilateral agreements between the states became a very popular regional way to guarantee minorities rights in the 90-ties. This is connected with the fact that most national minorities in Central and Eastern Europe are trans-border minorities. Governments in the region try to solve the problem of minorities by including provisions regarding minorities in the bilateral treaties with their neighbors. For example, Poland's treaties with Germany, Ukraine, Belarus, Russia, and Lithuania include this kind of provisions. Ukraine and Hungary also joined in a mutual declaration regarding the principle of co-operation for guaranteeing the rights of minorities. Slovenia and Hungary signed agreements in 1992 assuring protection of Magyar minority in Slovenia and Slovene minority in Hungary. Slovak-Hungarian and Romanian-Hungarian bilateral treaties, signed after long and difficult negotiations, were very important for easing tensions around the status of Hungarian minorities in Slovakia and Romania. This way of regulating minorities' rights creates some potential dangers as it does not foreclose the possibility of unequal treatment of different national groups, especially in the absence of internal legal protection. For example Poland, who signed an agreement with all neighboring countries still lacks a National Minorities Act.

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<sup>5</sup> G. Janusz, *Prawa mniejszości narodowych. Standardy Europejskie*, Warszawa 1995, pp. 23–59.

Some countries hesitate to participate in these kinds of agreements, using principle of non-interference in the internal affairs of the state as an argument. Others are afraid that the mother country of their minorities will become involved in matters of national groups living within their state borders. Negotiations around the Polish-Lithuanian treaty, as well as conflicts between Hungary and Slovakia and Romania over Magyar minorities in these countries provide examples of this kind of situation. We can safely foresee that Central European states with minorities that are linked ethnically to dominant ethnic groups in the neighbouring countries will keep signing bilateral political agreements with these countries regarding among other things, the status of national minorities. The rights granted to minorities in such agreements will be based on the reciprocity principle. Their practical application in every given country will depend on the particular aspirations of minorities group, its history of coexistence or conflict with other national groups in the country, state relations with the particular mother country and the legal, political and economic instruments available to the group. For example the German minority in Poland managed to negotiate much better terms of implementation of the provisions in the Polish-German treaty than other national minorities in Poland. Situation of German minority in Poland is strongly influenced by the economic and cultural support provided by Germany as well as by the concentration of this minority in the Opole region.

Elaboration and strengthening of universal international standards of minorities protection becomes even more important in this situation, as it not only provides the legitimacy of minorities' aspirations but also provides equality of protection. Not only equality might be infringed by the establishment of different standards during bilateral negotiations but also bilateral agreements might prove insufficient for small, dispersed minorities that lack political organizations or a mother country to speak up for them. Recognizing these dangers, many countries include provisions in bilateral agreements regarding compatibility with European law as a lowest possible standard. That still does not solve the problem of minorities that, like the Roma, cannot bargain for special rights in bilateral treaties and agreements.<sup>6</sup>

Let us turn now to the "individual versus group rights" dilemma. There are differences both in time and location of both practices in the Central European states. Initially (1989-93) an individualist approach was dominant in the regulations concerning minorities. Post-communist governments generally showed aversion toward group rights and extensive regulations on religious and ethnic minorities. Some states (Poland, Slovakia, Czech Republic) tried to introduce the formula of minority protection within general human rights

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<sup>6</sup> See *Public Policies Concerning Roma and Sinti in the OSCE Region*, OSCE Human Dimension Implementation Meeting, October 1998, background paper.

protection. In the later period (1993-99) most of the states introduced some instruments based on group rights. In some countries it took the form of cultural autonomy (Estonia, Latvia, Lithuania); elsewhere minorities self-government (Hungary) while Poland, Slovakia and Czech Republic introduced some group rights into their constitutions and legislations (in such areas as education, electoral rights, language laws and culture). It was generally connected with the progress of the international standards for national minorities protection based on the group rights and with the relative lessening of the national conflict in these countries, which made introduction of such legislation feasible. Nevertheless collective rights for national groups in East-Central Europe are still a source of many conflicts and suspicions. Questions of loyalty of members of ethnic minorities toward the state are raised by nationalist politicians. Irredentist claims and demands of territorial adjustments are feared. Possibility of unequal status of different minorities groups in the system of collective rights is noticed by some analysts, they claim that this can be contingent on the different bargaining power of different minority groups.

Very visible tendency in the region is the presence of the national minorities issue during the constitutional debate and providing for the national minorities rights in the new constitutions. Looking at the East-Central European constitutions, we can distinguish between two categories. Almost unanimously non-discrimination clauses based on all-national and ethnic origin have been introduced into constitutions (e.g., Poland, Czech Republic, Latvia, Lithuania). Many post-communist states introduced constitutional provisions for special "positive rights" for minorities (Hungary, Slovakia, Estonia). Constitutions, especially newer ones, often repeat norms from the international instruments of national minorities protection. In addition, many constitutional preambles contain provisions concerning the definition of the nation and the place of national minorities in that state. We can divide the countries into two groups. In the first group (Poland, Hungary, Czech Republic) constitutions describe the nation in the civic terms and regard national minorities as a part of the political nation in that state. In other states (Slovakia, Baltic States) constitutional provisions contain nationalist vision of the state and the ethnic concept of the nation.

In the internal legislation concerning national minorities most East-Central European states emphasize constitutional guarantees. At the same time many have problems with the implementation of these provisions. Fully effective administrative protection also remains a problem in the new democracies. Constitutional guarantees are not accompanied by the implementation in the lower level regulations and in the policies in the state. In states such as Hungary, Czech and Slovak Republics, Poland citizens have a right to the petition to the constitutional courts that give members of the national minorities the opportunity to question the state agencies unconstitutional decisions.



Some post-communist states did not limit legislation concerning minorities' rights to their constitutions and introduced parliamentary acts on national minorities. The character of these acts varies from country to country. The Polish bill (still in the parliament) protects rights of persons belonging to national and ethnic minorities in the strictly non-discrimination mode with very few collective rights acknowledged (only educational and elections). By contrast, The Hungarian Law on the Rights of National and Ethnic Minorities grants both individual and collective rights. The most important collective one is the right to the parliamentary representation. Minorities may also set up minority local governments that will participate in the work of regular local government. Furthermore, each minority group (separately or with the others) has a right to establish a countrywide self-government. In these ways the Hungarian law is designed to safeguard the interest of minorities on the national, regional and local level.<sup>7</sup>

Passing laws is hardly the equivalent of implementing them. Effective protection of rights requires not only constitutional provisions and legislative acts but also regulations and administrative policies, for it is usually the executive branch that deals with the particular problems and conflicts. The administrative decisions and regulations usually concern such questions as minority education, religious practices, use of minority languages, education, minorities' access to public administration, use of traditional names, participation in public media, holidays etc. It is on this level that differences in minorities status in different East-Central European states occur. What might be important, especially for small or highly dispersed minorities who do not have chance for representation in the legislature, is the possibility of representation of their interests in some kind of administrative body. Examples here are the Polish National Minorities Bureau in the Ministry of Culture or the Romanian Council for National Minorities, both administrative bodies that despite their very controversial beginning as a smokescreens – play an important role in moderating national conflicts and providing for the minorities needs and interests.

Typical of the postcommunist states is the infrequent use of judicial tools for the protection of minorities' rights. Constitutional review had become a very important tool in the reform of the judicial and legal system in Central and Eastern Europe. In many countries of the region constitutional tribunals began to play an important role in assessing constitutionality of the legislative and administrative decisions. In Bulgaria and Hungary constitutional courts adjudicated cases connected with the status of national minorities, thereby establishing certain legal practice of solving minorities' problems this way. In some Central European states citizens obtained a right to petition to consti-

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<sup>7</sup> See *Self-government in Hungary: The Gypsy/Romani experience and the prospects for future*; report published by The Project on Ethnic Relations, Princeton 1998

tutional courts or judicial courts in general if their constitutional rights are infringed. Now the question remains how can it work in the states with little or no legal background in human rights. The constitutional review is not widely used by national minorities. For example Hungarian Constitutional Tribunal (the most active in the region) dealt with the national minorities rights only couple of times since 1996.

Dissemination of information on national and international human rights standards and possibilities of complaints either by individual or NGO seems very important. In the case of national minorities even more important as these communities often live on the fringes of society with little access to the mainstream information sources. In some Central-East European states (Poland, Hungary) the office of ombudsman became very important for implementing human and minority rights. The Hungarian Act on the Rights of National and Ethnic Minorities created a special ombudsman office that along with the local ombudsmen for minorities' deals with the infringements on national minorities rights.<sup>8</sup>

Democratization in Central Europe states means political involvement of national minorities. Many national minorities parties participate in elections and win seats in legislatures. The new political freedoms granted in the new constitutions have given national minorities much bigger chance to organize and express their interests. There has been an explosion of minority's organizations in the region. Minorities' political parties were formed and participated successfully in national elections (German minority group in Poland, Movement for Rights and Freedoms in Bulgaria, Hungarian Parties in Slovakia, Polish Electoral Action in Lithuania). Cultural freedom for minorities greatly increased with the end of communist policies of assimilation.

Unfortunately there is a darker side to the changes too. Paradoxically, adoption of the system of citizen's political rights and freedoms has exacerbated some problems of minorities in the region. Freedom of expression allows verbal abuse of minorities. Roma in Romania say "Now we know what it means to be a Gypsy". Many nationalist politicians use minorities as scapegoats knowing that protecting minorities is often unpopular among the general public. In an ideological vacuum in post-communist societies the attempts at the social consolidation around the nationalist agenda became quite frequent (e.g. Slovakia, Romania, Lithuania, Hungary, Poland). Furthermore, abandonment of economic and social rights by post-communist states has often disadvantaged minorities, especially Roma, who are usually at the bottom end of the society. For example in Poland where there are no other serious threats to Roma existence at the moment; Roma suffered heavily from the economic transformation, as they are first victims of unemployment and poverty.

<sup>8</sup> For the very detailed description of the institutional development of minorities protection in post communist states see J. Kranz (ed.), *Law and Practice of Central European Countries in the Field of National Minorities Protection after 1989*, Center for International Relations, Warsaw 1998.

Another area of legal protection for minorities has been in the electoral laws introduced and formed all across post-communist Europe. Not only persons belonging to national minorities there enjoy the same as other citizens rights of participation in the democratic elections. Certain states in East-Central Europe started promoting representation of national minorities by special provisions in electoral laws. Polish electoral laws lowered number of signatures required for the successful registration of minorities candidates and electoral lists and exempted minorities lists from the 5% threshold. Other measures might include lowering the number of votes needed for election of the minority candidate (preferential mandates); or reservation of the certain number of parliamentary seats for minority representatives. Some commentators express concern that this kind of arrangement might force "ethnic parties" to focus solely on the ethnic interests while failing to give minorities a sufficient number of seats to affect decision making process in legislatures.

Within the legislature itself the representation of minorities and their interests might be organized in number of ways, not just through the participation of minorities parliamentarians. Other examples are the parliamentary committees formed to deal with the national minorities issues. For example Polish committee played a very important role in drafting National Minorities Act and provided very important forum for the national minorities, experts and political parties to express their opinion's during the phase in which the bill was hammered out.<sup>9</sup>

There are two major formulas, which can (but need not) accommodated territorial claims of minorities within the democratic state: federation and territorial autonomy. None of the post-communist states in East-Central Europe has chosen federation model of state. The split of Czechoslovakia and the Yugoslav tragedy seem to be an indication of the ineffectiveness of that model in contemporary post-communist Europe. As for autonomy we can observe cultural autonomy granted to many national minorities (Estonia, Lithuania, Slovakia). In many cases there is an ongoing conflict between minorities and governments about actual scope of autonomy. Silesian region of Opole is an example where regional interest were defended during the administrative reform by both German minority and Polish majority. In general territorial autonomy is very difficult to attain, as contemporary states in East-Central Europe are still very worried about their sovereignty and possibilities of irredentism in autonomous regions. During the conflict between Polish minority in Lithuania and the newly independent state of Lithuania – the demands of autonomy for Poles became an obstacle to any sort of agreement. Once it was dropped, the relations began to improve and in fact cultural autonomy for Poles granted.<sup>10</sup>

<sup>9</sup> See G. Janusz (ed.), *Raport o sytuacji osób należących do mniejszości narodowych i etnicznych w Polsce*, Helsińska Fundacja Praw Człowieka, Warszawa 1994.

<sup>10</sup> J. Sozański, *Prawa mniejszości narodowych w niepodległej Litwie, Łotwie i Estonii*, Fundacja Promocji Prawa Europejskiego, Warszawa 1998, pp. 49–103.

With the development of the local government and local politics in post-communist states, the question arises about possibilities of dealing with the ethnic and national conflicts on the local level. Can local government be a forum for the national conflict resolutions? Very little in fact has been known so far as the local level is new in post-communist states. It looks like a very promising arena for realization of national minorities rights, especially in the areas where minorities live in a compact communities, in the border areas or in the close proximity to people of the same nationality across the border. As explosive as this kind of situation can be, it also creates possibilities of trans-frontier cooperation, Euroregions and citizens diplomacy, all of which might become an arena of minorities' activities. So far it seems that different countries of the region relegate minorities protection to different level of government. While Hungarian Act on the Rights of National and Ethnic Minorities decentralizes the system allowing for the local institutions and mechanisms; Polish draft Act on National and Ethnic Minorities clearly sees the central government as a chief protector and guarantor of minorities rights.

#### RELATIONS BETWEEN INSTITUTIONAL REFORM AND THE FORMATION OF NATIONAL IDENTITIES

Two issues should be considered here. How the dynamics of transformation (for instance, the debate on citizenship, the state building process, democratic institution-building) shapes the identities of national minorities (and majorities) in East-Central Europe? To what extent has participation in democratic political process changed identity of national groups in post-communist states. To what extent has the debate and legislation on human and minority rights on the international and national level in Central and Eastern Europe influenced process of constructing national minorities identities after 1989?

The area where I see decisive changes is a debate on international standards of protection. A process of internationalization of protection (international laws, organizations and instruments) is going on. In most cases of conflict over the status, national minorities would like to base protection of their rights within their countries on the basis of the international standards. In most cases governments followed although they might well interpret international standards differently. Generally though we can observe standardization of protection. European model of protection based on the Council of Europe institutions and to some extent on the documents and standards introduced by OSCE is emerging. It is based predominantly on individual rights of persons belonging to national minorities; requires citizenship as a basis for that protection; includes "security" clauses; concentrates on language and education as the most important rights. There was political pressure from Council of Europe and other

international fora to regulate the situation of national minorities according to these standards. Minorities having no possibility of using national instruments (given their weakness and ineffectiveness) identify their rights through international standards and instruments. Bilateral treaties were also common way to regulate and manage national conflicts. This reinforce and strengthen the image of national minorities as "the others". The majority starts to see them as those who seek foreign protection and assistance in securing their interests.

We can also see some interesting differences in the perception of minority rights among minority and majority groups. In post-communist states suspicion against group rights and also social and cultural rights has surfaced for they are associated with the communist state practices and unfulfilled promises of communist constitutions. The practice and experience of human rights activists in communist states was very pro-individual rights (prisoners rights, political rights, along with other fundamental freedoms were their main focus under communism). Good example here is provided by Polish and Czech Helsinki Committees by far the most active human rights organizations in the region within the pre-89 history. They both were very involved in the battle for the national minorities rights but wanted to limit them to the formula "persons belonging to national minorities". In the activities of Polish Helsinki Committee one can still see preference for the individual rights in their agenda. On the other hand, national minorities perceive individual rights as ineffective and not something that can influence their political status as a group.

The third phenomenon that I want to mention is a clash between the political mobilization of national minorities and "cultural" concept of minorities favoured by the many post-communist policy makers. National minorities in new democracies participate in the political process through political parties of minorities, the electoral process, government coalitions, lobbying and organized interests, public law advocacy and activism in international organizations. These possibilities for the minorities are greater when a minority is well-organized. For example Germans in Poland are the best organized and also the most successful politically, as opposed to Ukrainians in Poland. New minority elites have been much more interested in the political process than in traditional cultural and social activities of national minorities. That transforms, in my opinion, the identity of many national minorities in new democracies into something more political and activists. At the same time many policy makers belonging to minorities will see them as cultural minority; realizing their national identity through cultural activities and being a passive recipient of government policies. Even those that allow for rather substantial cultural autonomy for minorities have problems with acknowledging the position of national minorities as political players rather than the subject of cultural policy.

## STRESZCZENIE

Artykuł omawia główne trendy debaty publicznej na temat praw mniejszości narodowych trwającej od 1989 roku w „nowych demokracjach” Europy Środkowej. Przedstawione zostały dylematy związane z instytucjonalizacją statusu mniejszości narodowych: kwestia wyboru pomiędzy modelem ochrony przy pomocy praw indywidualnych lub grupowych, problem poziomu ochrony (międzynarodowy, państwowy, regionalny, lokalny) oraz obecny w trakcie debaty konstytucyjnej w wielu państwach post-komunistycznych problem opartej wypracowania koncepcji państwa w kategoriach obywatelskich a nie narodowych lub etnicznych. Omówione zostały również instrumenty prawne i polityczne dostępne mniejszościom narodowych w Czechach, Estonii, Litwie, Łotwie, Polsce, Węgrzech i Słowacji. W konkluzji wskazano jak omówione procesy instytucjonalizacji wpłynęły na proces konstruowania tożsamości narodowych zarówno mniejszości jak i większościowych grup narodowych.