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## **The background of the Soviet Union's involvement in the establishment of the European minority rights regime in the late 1980s**

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### **Abstract**

The USSR played a significant role in the adoption of the first CSCE instruments pertinent to minority protection, particularly the 1990 Copenhagen Document. The author argues why this East-West encounter was possible and why the two blocs were able to speak a common language on 'nationalities' issues. The author demonstrates that the communist party leaders managed to put forward a renewed doctrine of nationalities policy that included such elements as framing the country as a union of self-determining 'peoples'; asymmetric federation; recognition of all ethnicities' right to 'develop' their cultures and languages; protection of 'non-titular' ethnicities and people's right to organize themselves for the maintenance of their cultures and languages. This approach appears to have much in common with the new European minority rights regime, particularly because the underlying principles were open to ad hoc interpretations and both systems provide the governments with broad margins of discretion. The similarity between the 'Western' and 'Eastern' approaches can be explained in a way that the both were operating in the framework of modernist social engineering. The combination of symbolic policy and weak institutionalization of instrumental measures allows explaining the viability of the established system in Eastern Europe and broader post-Soviet space.

**Keywords:** the CSCE; the Copenhagen Document; nationalities policy; minority regime; human rights; the 1980s; the Soviet policies of reconstruction

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## Introduction

Four significant turns are closely associated with ethnic politics in Europe in late 1980s. These are the start of ethnic conflicts in the European East and South-East; the departure of the socialist multi-ethnic federations in the direction of their dissolution that followed later; revision in the approaches practiced by communist or by that time already transitional governments in the East toward diversity management; and the emergence of the European minority regime, which manifested itself primarily in the activities of the Conference for Security and Cooperation in Europe (CSCE). These four areas of public politics are interrelated in a complex way; one may state that so far a simplistic analysis of this mosaic and causal links between its components still prevails in academic literature. The emerging international regimes are routinely explained as derivatives of security concerns of that time striking the leading players – governments and intergovernmental organizations (IGOs). In turn, the said concerns are deemed to be an obvious outcome of ethnic conflicts and the threats to the territorial integrity of individual states. The reaction to the latter was the elaboration of the liberal democratic approach to minority issues in order to tame both the destructive nationalist aspirations and minority concerns and the subsequent transfer of these innovative ideas eastwards. For example, Will Kymlicka attributes the emergence of the modern minority regime to the convergence of two factors, fear and hope: ‘fear of the spread of ethnic conflict after the collapse of Communism, and a hope for the possibility of a viable liberal-democratic form of multiculturalism’ (Kymlicka 2007: 48).

I am not going to say that these perceptions are totally wrong in themselves; my point is that they offer an inaccurate and incomplete picture. First, the suggested timeframe is questionable. The critical turn in international minority-related politics was the Copenhagen Document of the CSCE Summit (Document of the Copenhagen Meeting 1990), which in fact set up the guidelines for the subsequent minority framework in Europe currently employed by all major European organizations. The Copenhagen Summit took place in June 1990; the preparatory process started much earlier, and at that time it would be premature to talk about real threats of large scale ethnic conflicts in Europe or to predict flows of refugees from the Caucasus or other already violence-torn regions. It is likely that some experts anticipated such unfortunate developments, but they were hardly a central part of the international agenda. Second, knowledge transfer from the West to the East, or broader, ideological patronage of the developed democracies over the transit countries started later, in the early 1990s when the Soviet Union and Yugoslavia dissolved and full-fledged civil wars actually began. By the turn

of the 1980s, these two multinational countries, although both experienced turbulence in domestic politics and economics, demonstrated vitality, and the USSR still was one of the superpowers and major actors in Europe and the world.

On top of this is the fact that the Soviet Union as it was between 1988 and 1991 is by default regarded in the limbo of a failed state on a fast track to breakdown. The fact that the USSR could not cope with domestic disintegration and collapsed surprisingly quickly prevents most scholars from taking the changes in the Soviet nationalities policy seriously. The country's rapid erosion and ultimate disappearance seem to justify by default the almost common negative judgements of Michael Gorbachov's policies as slow in response, inadequate and erroneous (Beissinger 2002; Bilinsky 1991; Karklins 1994); this attitude causes people to overlook the transformations in the Soviet ethnic policies and their consequences, both in the international arena and in further evolutions of the post-Soviet states.

The fact is that in 1990 the Soviet Union and other socialist countries took active part in the CSCE activities and particularly in the drafting of the 1990 Copenhagen Document as well as in facilitating the subsequent initiatives (Inder Singh 2001: xiv-xv; Eide 2005; Coakley 2016: 15). The fact is that both opposing blocs were able to come to common grounds in framing diversity issues; however, there is no evidence that minority or broader ethnicity-related issues were a source of significant controversies among diplomats and experts. It is not my intention here to engage in diplomatic history and to address concrete motives behind the major actors' behaviour. My task is to look at the ideological background of the negotiations and to analyse to what extent the official stances, concepts and vocabulary of the Soviet authorities were beneficial for the search for a common position with the West. I am seeking to answer why this East-West encounter was possible and why the two blocs were able to speak a similar or the same language on 'nationalities' issues. My hypothesis here is that the official approach to the 'nationalities question' of the Soviet Union did not contradict the other stakeholders' position; this made the adoption of the basic international guidelines in minority protection possible.

I can only emphasise one motive that must have strongly affected the behaviour of the Soviet leaders in international arena. In light of the emerging conflict and rivalry between the Soviet central leadership and governments of the union republics as well as the need for foreign loans, Michael Gorbachov did his best to convince the Western counterparts that the

central government rather than republican authorities was a reliable and responsible partner. This interpretation does not contradict but rather develops the major hypothesis of this article.

## **1. The 1980s turn in the Soviet nationalities policies**

The USSR's rapid collapse in 1991 overshadows some drastic changes in the country's domestic politics and the effects they had on international relations and the development of the successor states. Among the most noteworthy processes pertinent to nationalities issues are the relatively prompt reaction of the Soviet authorities to the new challenges posed by nationalism-driven claims of the constituent regions and ethnic movements; the following legislative and institutional reforms; and the transformation of the previously closed decision-making into public politics.

Before talking about the events of the second half of the 1980s and the official responses, it makes sense to touch upon the preceding models of diversity governance in the USSR. Throughout Soviet history, the Bolsheviks pursued specific policies for the management of ethnic diversity and regarded it as a key element of their system of rule. These policies were not something uniform, and they were changing over time (for an overview see Suny 1993; Martin 2001; Brubaker 1996). Until the early 1930s, the Soviet rulers incorporated ethnic elites into the system of governance by institutionalization of ethnicity through territorial organization and ascribed individual affiliation (Brubaker 1996). This policy entailed different investments and protective measures aimed at social development and promotion of non-Russian ethnicities (Cadiot 2007). From early 1930s, the official policies were gradually turning to further centralization and reduction of the cultural and institutional mosaic in favour of the Russian language and, to a lesser degree, languages of the first-tier union republics (Roeder 1998; Slezkine 1994). Repressive policies amounting to genocide against some ethnicities and the harsh centralizing policies of the late 1930s to early 1950s were replaced by some degree of decentralization and more opportunities for non-Russian languages in the late 1950s to early 1960s (Anderson and Silver 1990; Suny 1992). Finally, from the mid-1960s, the Soviet authorities elaborated a relatively stable *modus vivendi*, or some balance between the centre and the peripheries (Rigby 1990; Smith 1999). Social, economic and cultural homogenization and formal centralization went hand in hand with some informal power division between Moscow and the union republics and some silently acknowledged degree of republican elites' freedom in the pursuit of their interests.

The official ideology of ‘internationalism’ was combined with the crypto-ideology of nationalism<sup>1</sup> at the republican level; numerical prevalence of ethnic Russians in central party and governmental bodies was combined with dominance of ‘titular’ ethnicities at the regional level (Kolstoe 1995:102-103; Smith 2013: 238-251; White 1993: 143-185).

Despite significant shifts and transformations in nationalities policies over the entire Soviet history, there were some basic features that remained intact. The ‘nationalities question’ was not regarded as merely a branch of administration – it was a core element of the official ideology developed by the communist party. Explicit official approaches were termed in unclear and sometimes contradictory ways that left them open to interpretations, while making such interpretations was allowed only to authorized ideologists (Lapidus 2004: 125-126). The ruling apparatus and official spokespersons did not explicitly recognise any significant problems in the very fundamentals of the nationalities policies. Official comments and explanations concerning the ‘nationalities question’ conducted in public and particularly vis-à-vis the outside world prior to 1988 looked to be merely a set of ideological clichés (Banton 2002: 185-186). Academic expertise on ethnic issues was either marginalized or was developing as a part of the official propaganda machinery. The actual decision-making pertinent to ethnic relations was closed to the public. The institutional underpinnings of the Soviet nationalities policies over decades remained intact. The country was designed as a multi-level federation, where the constituent units and autonomies within were implicitly treated as ethnicity-based and where the actual governance was embedded in the party machinery and highly centralised. Strategically, the domestic policies aimed at the achievement of the whole country’s full governability and therefore at creating similar social and economic structures, and at the pursuit of homogenising linguistic, cultural and educational policies.

From early 1980s, the Soviet rulers started to acknowledge some problems in keeping nationalities issues under control. First, they admitted to demographic and economic disproportions in the development of different republics and a partial loss of control over republican bureaucracy because of corruption and ‘clanism’ (Smith 1990: 10-16; Lapidus 2004: 128-130). Later on, the authorities were confronted with multiplying conflicts and manifestations of unrest (for a detailed overview of conflicts and other ethnopolitical developments prior to 1990 see: Nahaylo and Swoboda 1990).

In December 1986, the Kazakh youth in Alma-Ata protested against the replacement of an ethnic Kazakh by an ethnic Russian as the first secretary of the republican branch of the

communist party; the protests escalated into riots and clashes with the police. In June 1987, the Crimean Tatars rallied at the Red Square in Moscow and other places, demanding their right to return to their homeland from which they had been deported in 1944. In February 1988, the Armenians of the Nagorno-Karabakh Autonomous Province of Azerbaijan started urging the transfer of this territory to Armenia; this motion triggered mass interethnic clashes and then a large-scale conflict between the two republics. In the second half of 1988, mass movements for sovereignty (at that time understood broadly and with a large degree of ambiguity) emerged in three Baltic republics; later on, they created alliances with the local communist elite, took over in the regional legislatures and in 1990 started a transition period to full independence. A similar evolution took place in Moldova; an attempt to quell nationalist movement in Georgia by armed forces in April 1989 failed and resulted in the loss of the centre's control over the republic. Control of the communist authorities over Armenia and Azerbaijan also started to evaporate concurrently; the Ukrainian nationalist movement also widened and strongly affected the stances of the official communist leadership in Ukraine. From October 1988 to June 1991, all the union republics adopted their declarations of sovereignty aiming at either full independence or supremacy of the regional legislation over the all-union one. All the union republics but Russia started the processes of cultural and linguistic 'nationalization' in favour of their 'titular' ethnicities, and the 'titular' languages gained official status. Autonomous regions within union republics in turn claimed greater autonomy; Georgia, Moldova, and Azerbaijan engaged in conflicts with their autonomous units or compactly settled minorities. Formerly deported ethnicities urged return to their homelands and compensations for the past sufferings; smaller scale ethnic clashes were sparked across the country. The centre's armed responses failed; the negotiations over a new Union Treaty resulted in nothing, and after the coup of August 1991 the Soviet Union fully collapsed in December of the same year.

Although the history of the country's breakdown is impressive and cannot be judged in a way other than a full failure of the Soviet rulers, this shall not overshadow the fact that the country's leaders responded to the new challenges in a way other than that we can observe earlier in Soviet history. The means used included not only suppressive measures, intimidation of the protestors and political manipulations. It is important to note that the Soviet central authorities, first, overtly recognised the problems; second, relocated 'nationalities question' to the domain of public politics and open discussions; and third,

started to elaborate and implement a comprehensive model of diversity management to a large extent departing from the old Soviet dogmas pertinent to nationalities issues.

In January 1987, the Plenum of the Central Committee of the Communist Party of the Soviet Union (CPSU) recognized the flaws in ethnic policies and the need to study the existing problems and improve the official approaches (Lapidus 2004: 131-132). Shortly afterwards, new analytical units on nationalities issues were established within the USSR Academy of Sciences and then in republican academies. The XIX CPSU Conference (amounted to a Congress) reserved time for a discussion on the future of the Soviet federation and in one of the adopted resolutions called for its deep reformation. In August 1988, a special unit on ‘nationalities policy’ was established within the CPSU Central Committee (see Kuleshov et al. 1997:346-351). In May–June 1989 there were wide debates on nationalities issues at the 1<sup>st</sup> Deputies Congress, a new supreme legislative organ of the USSR, and this resulted in the establishment of standing and *ad hoc* committees on ethnicity-related affairs. In September 1989, a special Plenum of the CPSU Central Committee adopted the Communist Party Platform on Nationalities Issues (for a compilation of the relevant documents see: *K soyuzu* 1991) – a detailed and comprehensive policy guideline drafted after a long lasting countrywide public discussion. In November 1989, the USSR Supreme Soviet – the permanent legislative body formed by the Deputies’ Congress – adopted the Declaration of rehabilitation of the ‘repressed peoples’; this act really launched a cascade of supportive actions targeting formerly deported ethnicities. In April 1990, the Supreme Soviet enacted five all-Union laws pertinent to federative and ethnic relations, namely on the persecutions of violent encroachments on the Soviet Union’s integrity and of fueling interethnic tensions;<sup>2</sup> on the procedures of the union republics’ secession from the USSR;<sup>3</sup> on languages;<sup>4</sup> on the rights of persons residing outside of their national-territorial units or not having such in the USSR;<sup>5</sup> and on the division of competences between the central government, union republics and autonomous units.<sup>6</sup> Finally, from 1990 on, there were two major attempts and related negotiations that involved union and autonomous republics and aimed at the elaboration and adoption of a new Union Treaty for the re-establishment of the renovated Soviet Union.

The whole array of party and governmental conceptual documents, legislative acts, statements of high-ranked officials, and the entire course of action allows for deconstructing the conceptual underpinnings of the renewed policy. Here I address public narratives produced by people and institutions representing the central authorities of the USSR; for

practical reasons it makes little if any sense to make a distinction between the Communist Party and the governmental institutions in a strict sense.

In the first instance, the country was framed as a union of self-determining ‘peoples’ understood as ethnicities. The federation was viewed as an asymmetric setting comprising ethnicity-based territorial units, the statuses of which were in principle negotiable rather than imposed from above. In turn, federation units were supposed to be economically viable and to develop in accordance with their cultural traits. Along with this, all ethnicities were considered to enjoy the right to ‘develop’ their cultures and languages. Language policies were supposed to include such elements as the creation of conditions for the usage and development of all languages; official recognition of those belonging to ‘titular’ ethnicities of union republics, autonomous regions and ‘compactly settled’ groups; and individual freedom to choose the language of communication in private life as well as in education and communication with the authorities and in other spheres of public life. Equality of all citizens regardless of their ethnicity and language and their freedom from intimidation and hate speech were strongly emphasized on each possible occasion in almost every official text concerning the ‘nationalities question’. In this regard, ‘non-titular’ ethnicities (or, to be precise, according to the official formulation, “persons resident outside of their national-territorial units or not possessing such within the USSR”) were supposed to be protected and supported by the state in the pursuit of their cultural, linguistic and educational needs and interests. ‘Peoples’ friendship’ and ‘internationalism’ were regarded as tools for preventing ethnic conflicts. Last, but not least, people must have the right to organize themselves for the maintenance of their cultures and languages. Formerly deported peoples as collectivities were to get full ‘rehabilitation’ and an unspecified compensation for the past sufferings.

Were these basic principles something new as opposed to the normative and discursive guidelines of the earlier periods of the Soviet history? Definitely not. The communist party doctrines and the mainstream Soviet academic discourses recognised ethnic underpinning of the constituent units’ statehood albeit not always clearly and explicitly. The Soviet legislation after the 1920s was less straightforward and contained only ambiguous provisions on ethnic ‘belonging’ of the republics and autonomous regions. The idea of self-determination was embedded in the constitutional acts and widely acknowledged, although without any practical consequences. The notion of ethnic groups’ (nationalities) subjectivity (and nationalities’ rights and interests as its derivatives) as such was embedded in the legal doctrines of ‘national’ i.e. ethnic sovereignty elaborated within the Soviet academia from the 1940s on

(Korkmasova 1984; Sudnitsin 1958). Finally, the communist authorities to a varying degree always relied on ‘participatory totalitarianism’ (Gill 2011: 2; Fukuyama 1993: 12-13) and thus exploited bottom-up mobilization induced, guided and controlled from above.

From 1989, this renewed official conceptual framework was gradually translated into legislation and institutional settings. Two remarks are required here. First, the union republics and later on autonomous regions pursued their own nationalities policies, which terminologically and conceptually had much in common with the all-Union approach. Moreover, the centre and the periphery were developing their normative and institutional frameworks in parallel; sometimes the centre was outpacing the republics, and sometimes the republics went ahead. For example, the all-Union law on languages of April 1990 conceptually resembled the republican laws, most of which (11) were adopted earlier, from January 1989 to January 1990. The all-Union law on the rights of persons resident outside of their national-territorial units had much in common with the Estonian law on nationalities rights of 1989.<sup>7</sup> Second, the issue at stake is the explicit framework driven by the central elites. I do not consider below, to what extent it was a common frame of reference for other domestic stakeholders, to what extent it was implemented at that period and, broader, what kinds of effects it generated on the ground (for more on legacies see Biaspamiatnykh et al 2014); Osipov 2015). The latter question is generally highly relevant for the understanding of post-Soviet evolutions, but it goes far beyond the topic of this article.

The course and tentative practical outcomes of norms- and institution-setting of that time can be briefly described in the following way. The explicit legislative provisions pertinent to ethnic relations were vague in scope and content; it was resting on nebulous formulations open to interpretations. Legislative following the conceptual documents of the Communist Party were also ambiguous since they contained different rhetoric strategies and included direct references to different values and ideological systems (Lenin’s legacies, social justice as an ideal of socialism; democracy and individual rights; nationalisms in terms of nationalities’ collective rights). The provisions enshrined in the all-Union legislation were mostly blanket norms; they did not neglect the issue of implementation, but rather pointed out the division of competences between different levels of government and assumed that the union republics and the lower level territorial units would specify and implement their assignments. No piece of legislation envisaged and included any explicit criteria of effectiveness and sufficiency.

It is worth noting the legislation on languages: the republican laws on languages, adopted mostly in 1989, prior to the all-Union law established the languages of their ‘titular’ ethnicities as state languages (instead of previously used and unspecified notion of ‘languages of the republics’) while Russian was defined as the ‘language of interethnic communication’ with multiple albeit unclear functions. Republican laws also declared the right to choose individual linguistic identification; reaffirmed a general principle of respect and protection to all languages; and implied the opportunity of an individual to live and communicate in public domain with one functional language of the person’s choice (in fact, either the state republican language or Russian). This conceptual triad (state languages - Russian as the language of interethnic communication – minority languages in places of the bearers’ compact settlement) was replicated in the all-Union law on language while Russian was also granted the status of the state language of the USSR, and therefore obligatory for federal institutions. Besides, the all-Union laws and programmatic statements promised governmental support to public institutions (schools, theaters, media) serving “nationalities” (both ‘titular’ and ‘non-titular’). A novelty was also the promise to facilitate and support ethnicity-based non-governmental organizations and to cooperate with them. In practical terms, the central government established in 1990 an administrative body – the State Committee amounting to a ministry – on nationalities affairs (although it appeared non-functional) and really started interaction with a wide array of ethnicity-based organizations, particularly those that did not directly engage in politics.

## **2. International context and the Copenhagen Summit as the critical point**

The turn towards minority protection within the Council of Europe took place after the USSR’s dissolution; in any case, the Soviet Union was not a Council of Europe (CoE) member and could not affect the Council’s internal evolutions. Perhaps Soviet diplomacy played a role in the elaboration and development of minority-related instruments in the UN and its agencies, but this issue is not sufficiently studied and there is no evidence that an involvement of the USSR and its allies in minority debates at the UN arena had any visible impact on the overall process. For that reason, one shall regard the Conference on Security and Cooperation in Europe as the major organizational framework where the European minority standards were incrementally set up.

The CSCE was not designed as a fully functional international organization and norm-setting institution, but rather the West and the communist East regarded it as a forum providing for additional communicational opportunities for both blocs in the broader framework of *detente*. In fact, the search for communicative grounds resulted in the identification of certain common values and guiding principles, then in the formulation of common commitments, which later on were reinterpreted as the blueprints for binding (at least politically) international norms. This process also concerned national minority issues.

The founding CSCE document – the Helsinki Final Act of 1 August 1975 - contained two general and vaguely formulated principles stipulating that the states secure equality and full enjoyment of fundamental rights of persons belonging to minorities and that they facilitate identities of national minorities through cooperation with them in cultural and educational spheres.<sup>8</sup> These general commitments were reiterated and reaffirmed at the follow-up summits held in 1980-1983 in Madrid and in 1986-1989 in Vienna.

The turning point was the CSCE Copenhagen Summit held in June 1990; it was supposed to review the implementation of the member states' commitments in the field of the human dimension.<sup>9</sup> Among other issues, the discussion and the final document (Part IV) concerned minorities. As almost all observers admit, that was a breakthrough: the Summit formulated several innovative principles and approaches that later on became the fundamentals of the European minority regimes being embedded in further OSCE documents and in the CoE instruments including legally binding the Framework Convention on the Protection of National Minorities and the European Charter for Regional or Minority Languages (for more on the CSCE see Bloed 1995; Benoit-Rohmer 1996).

What were those principles? First of all, Part IV of the Document regarded minority protection as a part of the human rights agenda and refers to democratic framework as a necessary precondition for minority protection (items 30, 38). Second, the Document clearly reiterated and reaffirmed the already adopted principles such as equality and full enjoyment of rights by persons belonging to minorities (items 31, 40), the crucial role played by civil society organizations (item 30) and the need to protect and promote specific identities of minorities (item 32, 33, 34). Third, the Document introduced numerous innovative concepts – such as 'full equality', 'effective participation', 'autonomy arrangements', 'proportionate measures' (items 31, 35, 40.2); last but not least, it reaffirmed the general approach adopted by most international organization to defining the scope and content of 'collective rights' by

the formula of ‘individually as well as in community with other members of their group’ (item 32.6).

### **3. Differences and commonalities between the Soviet approach and the CSCE framework**

Obviously, there is no reason even in a formal sense to treat the CSCE-induced principles as a purely ‘Western’ approach since they were elaborated and approved in cooperation and upon agreement of the delegations from both the West and the East. As Asbjørn Eide observed, ‘principally, support for minority rights came from Central and Eastern Europe, including the USSR’ (2005: 41). The other way around, it makes sense to look more closely at the ‘Western’ approaches vis-à-vis the ‘Soviet’ ones, because the final approval meant the acceptability of the Copenhagen framework for the Western stakeholders; besides, within just a couple of years after the summit, the CSCE principles were instrumentalized without any revision as benchmarks used by the West for ameliorating the minority situation in the former communist countries (Kelley 2006; Sasse 2008).

Conventional wisdom fails here. One may assume that the major difference was in the language of ‘rights’ abundant in the Copenhagen Document but absent in the Soviet conceptual approach. In fact, the difference was of a quantitative, but not qualitative character. To begin with, the Copenhagen Document and the later instruments of the CSCE/OSCE and other European organizations contain no such notion as ‘minority rights’ or entitlements of special collective entities. In both frameworks, the drafters extensively referred to “rights” in the meaning of individual rights and the equality of these rights; the rationale of minority protection or ‘nationalities policy’ was thus guarantees of general human and/or civil rights. The Copenhagen Document emphasized equality of individual rights and the prohibition of discrimination; moreover, the Document introduced a new notion of ‘full and effective equality’ also without a definition or any indications to procedural guarantees (Henrard 2007). The Soviet conceptual and normative documents of that time contained an abundance of references to equality of individual rights of citizens and the need to prevent their violations. The Soviet authorities did little to set up a respective procedural framework; the comprehensive law of 1990 reaffirmed criminal persecution of hate speech (by then already criminally liable) and pointed out the already established mechanisms enabling the authorities to suspend or disband organizations engaging in fuelling ethnic tensions or incitement to discrimination.<sup>10</sup>

The central concept of the Copenhagen Document, the Framework Convention for the Protection of National Minorities and other fundamental instruments pertinent to minority protection is rights of persons entitled to certain protective measures, i.e. rights of persons belonging to minorities. Since the said belonging is not a legal condition and is not determined somehow, the issue at stake is persons in a specific social context.

The Soviet conceptual evolutions of the same time demonstrated a similar, but not identical approach. Several conceptual documents of the Communist party and the 1990 law referred to the “**rights** of persons resident outside their respective national-territorial units”, or, in other words, not belonging to the ‘titular’ ethnicities that in fact amounted to a minority concept. Also the newly emerging legislation on languages stipulated the **rights** of persons to the usage and preservation of their languages. One should also add that the very term ‘national minorities’ was not alien to Soviet ideologies: it was repeatedly employed in official reports of the USSR before international treaty bodies even before the *perestroika* (policies of reconstruction),<sup>11</sup> and it was used in the CPSU Platform on nationalities affairs of 1989 (*Natsionalnaya politika* 1989: 228). Along with this, the Soviet legislative text and party conceptual outlines contained numerous notions implying **rights** of collective entities such as ‘republics within the USSR’, ‘peoples’ right to self-determination’, ‘rights of groups resident outside their national-territorial units’ as well as ‘equality of peoples’.

Both the Soviet conceptual texts and the Copenhagen Document refrained from references to security and prevention of conflicts as a rational and desired outcome of minority and/or nationalities policies. The Soviet conceptual documents recurrently placed emphasis on the conditions for the ‘development’ of ethnicities and the need to satisfy the needs and interests of persons related to their ethnic affiliation. The language pertinent to the resolution of problems, development of groups and the need to meet human interests and demands prevailed in the Soviet official rhetoric over references to ‘rights’, but it was, first, combined with a rights-based approach and, second, it was not alien to the Copenhagen Document as well (see items 30, 32, 35). Finally yet importantly, both the CSCE approach and the Soviet official rhetoric of that time bound nationalities or minority politics with democratization and treated it as part and parcel of democracy.

If one looks at a wider context of ethnicity-related political and scholarly debates of the late 1980s inside and outside of the communist world, it would be easy to list a number of substantive thematic and conceptual parallels. In other words, both the East and the West demonstrated a similar outlook, set up the same agendas and offered similar solutions.

The first common feature is the silent recognition of ethnicity-based polity as a fundamental of statehood either fully independent or incorporated in a compound multi-national country. Respectively, territorial autonomy was explicitly recognized as a promising tool of diversity management. The rhetoric of group agency (minority rights) evolving into ‘self-determination’ was present in numerous political statements and expert debates, albeit kept aside from international legal instruments in a strict sense until 2007.<sup>12</sup> The notion of minorities being devoid of any clear definition is by default widely interpreted on both sides of the former Iron Curtain as ‘non-dominant’ or ‘non-titular’ groups (for more on the notion of minority see: Fottrell and Bowring 1999; Jackson-Preece 2005). The notion of equality on ethnic grounds is understood broadly; it is not confined to formal equality between individuals and includes group perspective and the cultural dimension (on synergies of different legal approaches to equality on ethnic grounds see: Henrard and Dunbar 2008; Weyss and Lubich 2004). Both the West and the East linked nationalities politics with democracy and placed emphasis on the self-organization of civil society and a positive role it could play in ethnic relations. Both sides recognized the need for protective governmental policies; both were ultimately concerned with territorial integrity, stability and prevention of conflicts; both acknowledged the need to preserve and promote cultures and languages, which were by default treated as attributes of particular ethnicities. Finally, there was to some degree a common interest toward restorative justice on ethnic grounds, although in the USSR it became an official policy targeting formerly deported ethnicities, while in Europe at that time it was confined to the domain of political philosophy rather than legal theory.

Several other features should be put on the top of the similarities list. First, both sides demonstrated an overarching nationalist worldview treating ethnicities as building blocks of society and perceiving cultures and languages as attributes of ethnic groups and concurrently as universal values. Second, both sides elaborated broad and loose normative frameworks where all formulae were open to interpretations and allowed for keeping a gulf between symbolic and instrumental policies (on the differences between symbolic and instrumental policies see Birkland 2005; Edelman 1971; Schneider and Ingram 1997). Third, both parties’ approaches can be referred to as social engineering; in other words society figured as an object of top-down state action mainly driven by developmentalist or security concerns. This list looks self-explanatory; if one assumes that both sides’ approach had the same origin in the 19<sup>th</sup> century nationalist worldview and embodied high modernity where individual liberties and democracy were optional elements, everything falls into place.

## Conclusion

Despite the previous inertia and dogmatism of the ruling apparatus, the communist party leaders managed to respond relatively rapidly to the newly emerging challenges. They put forward a renewed doctrine of nationalities policy that included such elements as framing the country as a union of self-determining ‘peoples’; asymmetric federation; recognition of all ethnicities’ right to ‘develop’ their cultures and languages; measures and mechanisms for the protection of individual equality; protection of ‘non-titular’ ethnicities and people’s right to organize themselves for the maintenance of their cultures and languages. The emerging system of diversity management had several institutional features, namely vaguely formulated ethnicity-specific legislative provisions; executive bodies in charge of ethnic relations; legislative hierarchy of languages with unclear obligations of public authorities; support to and communication with ethnicity-based civil society organizations; and support to public minority institutions.

This approach appears to have much in common with the new European minority right regime, particularly because the underlying principles are open to *ad hoc* interpretations and both systems provide the governments with broad margins of discretion. Both systems recognize ethnicity-based statehood in principle; employ the rhetoric of human rights and ‘development’; refer to group agency evolving into ‘self-determination’; broadly understand ‘equality’ with group and cultural dimensions; place emphasis on civil society self-organization; and express concern about territorial integrity, stability and prevention of conflicts.

The similarity between the ‘Western’ and ‘Eastern’ approaches can be explained by the fact that both were operating in the framework of modernist social engineering. The combination of symbolic policy and weak institutionalization of instrumental measures allows for an explanation of the viability of the established system in Eastern Europe and broader post-Soviet space. The parallels between the ‘Eastern communist’ and ‘Western liberal-democratic’ approaches to diversity policies also prompt two other assumptions: first, nationalities or minorities policies are bound to human rights primarily rhetorically rather than substantively, and second, these policies in the first instance belong to the domain of symbolic rather than instrumental policies.

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## Notes

<sup>1</sup> In this context, the term was coined by a Russian journalist and political analyst Eugene Ikhlov.

<sup>2</sup> USSR Law No. 1403-I from 2 April 1990.

<sup>3</sup> USSR Law No. 1409-I from 3 April 1990.

<sup>4</sup> USSR Law No. 1451-I from 26 April 1990.

<sup>5</sup> USSR Law No. 1452-I from 26 April 1990.

<sup>6</sup> USSR Law No. 1457-I from 26 April 1990.

<sup>7</sup> Zakon Estonskoi SSR "O nationalnykh pravakh grazhdan Estonskoi SSR" from 15 December 1989, *Vedomosti Verkhovnogo Soveta i Pravitelstva Estonskoi SSR*. 1989. No.40, St.618.

<sup>8</sup> <...> The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere. <...> The participating States, recognizing the contribution that national minorities or regional cultures can make to co-operation among them in various fields of culture, intend, when such minorities or cultures exist within their territory, to facilitate this contribution, taking into account the legitimate interests of their members. At: <http://www.osce.org/mc/39501?download=true>.

<sup>9</sup> There were also follow-up where the Soviet Union managed to contribute to, first of all in the Paris Summit. Its final document – the Paris Charter for a New Europe of 21 November 1990 – reiterated inter alia the following commitments. " <...> We reaffirm our deep conviction that friendly relations among our peoples, as well as peace, justice, stability and democracy, require that the ethnic, cultural, linguistic and religious identity of national minorities be protected and conditions for the promotion of that identity be created. We declare that questions related to national minorities can only be satisfactorily resolved in a democratic political framework. We further acknowledge that the rights of persons belonging to national minorities must be fully respected as part of universal human rights. <...> ", at: <http://www.osce.org/mc/39516?download=true>.

<sup>10</sup> USSR Law No. 1403-1 from 2 April 1990.

<sup>11</sup> For example, CCPR/C/1/Add.22. Human Rights Committee. Third Session. Consideration of Reports Submitted by States Parties under Article 40 of the Covenant. Initial reports of States parties due in 1977. Union of Soviet Socialist Republics. 31 January 1978.

<sup>12</sup> Specifically, the 2007 Declaration that included the notion of the 'right to autonomy' for the indigenous populations; see United Nations Declaration on the Rights of Indigenous Peoples. Adopted by General Assembly Resolution 61/295 on 13 September 2007.

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