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Minorities as citizens: The legal advocacy of language rights by the Hungarian minority in Romania

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Abstract

This article investigates the assertion of language rights through legal mobilization by the Hungarian minority in Romania, thus examining this emergent kind of mobilization aimed at the claiming of rights, often rights recognized by law, but not enforced in practice. This incongruity between rights on paper and their execution provokes interethnic rivalry for the visibility of language and culture, in which the exclusive ownership of sovereignty is marked by the dominance of national language in physical spaces coined as 'linguistic territoriality' (Csergő, 2007), fostering parallel, monolingual public spheres. Applying Rancière's theory to the case of the Hungarian minority in Romania, it is argued that civil society activists' legal mobilization initiatives are a manifestation of 'politics' in the Rancièreian sense as they challenge the distribution of public spaces along ethnic lines through pushing forward their integrative vision of the same spaces—thus 'seeking the litigious distribution of places and roles' (Rancière, 2003, p. 201).

KEYWORDS

Eastern Europe, ethnic conflict, Hungarian minority, language, minority rights, nationalism, Romania

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1 | INTRODUCTION

Although it is recognized that European integration has shaped minority political action in fundamental ways (Csergő & Regelmann, 2017), examining legal activism in the realm of minority politics in Central Eastern Europe (CEE) has remained a real oversight in the literature. In contrast to the flourishing scholarship in the United States, research looking at the litigation of minority rights in Europe is scarce and mostly focused on Western and South-Western Europe, leading to a 'glaring gap in social science and legal scholarship' (Anagnostou, 2014, p. 22). However, such an analysis could shed some precious light on the agency of minorities, in contrast to the dominant approach of nationalism scholarship, which focuses on how structural conditions constrain minorities in the region (Agarín & Cordell, 2016). Therefore, the present paper investigates the assertion of language rights through legal mobilization by the Hungarian minority in Romania. This emergent kind of mobilization is pursued by ethnic minorities to claim their rights (which are often rights recognized by law, but not enforced in practice), and studying it can reclaim agency as an analytical focus in the study of minority rights.

According to the emerging consensus in the literature, since the CEE countries joined the European Union (EU), a dual movement in minority rights has taken place. This has been characterized by the adoption of formal norms that strengthen liberal democracy, including minority rights, and substantive backsliding, helped by a lack of implementation that has had the negative effect of concealing persistent 'deeper political or societal trends' that perpetuate historically ingrained patterns of discrimination (Sasse, 2008). Such discrepancy between laws and implementation characterizes the evolving minority protection regime in Romania, where under the pressure of EU conditionality substantial legal progress was achieved, particularly related to minority language use and education in the minority language during Romania's EU integration process, by the main party representing Hungarians—the Democratic Alliance of Hungarians in Romania (in Hungarian, *Romániai Magyar Demokrata Szövetség* [RMDSZ]). However, the Romanian elite's vision of a culturally more homogeneous political community has prevented the adoption of institutional guarantees for power sharing between the minority and majority that could have created the conditions for better enforcement of minority rights. This has produced the minority governance regime coined 'unequal accommodation' by Kiss et al. (2018), in which the implementation of minority rights is subject to constant bargaining between minority and majority political elites, and is characterized by informality and patronage, which leads to the deficient enforcement of rights granted by law. This arrangement rests on unequal power relations between the minority and the majority, significantly limiting the agency of the former, as minority elites lack the means to effectively overcome the obstacles kept in place by majority elites that block the enforcement of minority rights.

The incongruity between rights on paper and their execution in practice provokes interethnic rivalries for the visibility of language and culture, which tend to play out at the local level. The public use of Hungarian language is largely uninhibited in localities where Hungarians constitute the local majority.¹ By contrast, cities in which members of both the majority and the minority are represented in substantial numbers have seen ongoing interethnic competition for the symbolic occupation of public spaces that are the focus of this study. That geographical distribution is inherent to these ethnic contests, in which the exclusive ownership of sovereignty is marked by the dominance of national language in physical spaces, was captured by the notion of 'linguistic territoriality' introduced by Zsuzsa Csergő (2007). The logic of 'linguistic territoriality' dictates the rules of the institutionalization of minority language rights 'in ways which serve the continued cultural ownership of territory' by the majority nation (Csergő, 2007, p. 11).

Although progressive laws regulating minority language use put in place during Romania's EU accession negotiations provide for the public use of Hungarian where Hungarians constitute at least 20% of the local population, in practice, Hungarian is allowed primarily within the ethnic institutional framework of the minority, outside of which bilingualism is generally considered an anomaly. This defines the unwritten rules of the symbolic occupation of spaces, according to which Hungarian is not allowed in social spaces occupied by Romanian, beyond which local ethnic elites must negotiate which in public domains Hungarian may be permitted.² These rules seem to govern the

behaviour of public authorities when they obstruct the use of Hungarian in interethnic public spaces, thus violating the relevant legal provisions. However, the same rules appear to guide the actions of the minority party, RMDSZ, when it concentrates its efforts on ethnic institution building, instead of pursuing bilingualism in local government bodies and interethnic public institutions and spaces. To compensate for the absence of Hungarian in interethnic public domains, RMDSZ has fundamentally cultivated the development of Hungarian-only institutions that constitute a parallel Hungarian society, such as schools, churches and cultural organizations that have fallen outside of Romanian spheres of interest, thereby ensuring the 'unmarked' status of Hungarian in these fora (Brubaker et al., 2006, p. 211). From the second half of the 1990s onwards, RMDSZ prioritized governmental participation and securing state resources for Hungarian minority institutions (through the allocation of public funds and public sector jobs) over pressing for the better implementation of language rights. Their transactional approach to minority rights resulted in treating rights as bargaining chips, which sometimes led to the loss of these rights.

The limits of this strategy were soon revealed after Romania's EU accession. After Romania became an EU member, external pressure for the protection of minorities was largely removed, causing a setback for minority rights despite RMDSZ continuing to share power at the centre and the local level. This provoked minority rights activists into action involving use of the legal opportunities created during Romania's EU integration process. Civil society activists started demanding bilingualism in the local public sphere after Romania joined the EU in 2007, thereby challenging the repression of Hungarian in public through legal mobilization campaigns. Yet by doing so, they also defied the very logic of the dominant order of 'linguistic territoriality', which fosters the existence of parallel, physically segregated, and monolingual public spheres. In contrast to RMDSZ's building of monoethnic institutions driven by the logic of ethnonationalism, they promoted bilingualism in public institutions based on the equality of citizenship rights.

In order to capture this internal contest within the minority community between different modes of representation, the agency of the minority needs to be scrutinized—that is, the mode of asserting rights in the face of the restraining order and understanding who in the community is entitled to claim these rights (Blechman et al., 2005, pp. 88–89). This may be done through adopting Rancière's concept of 'political dissensus' as a theoretical tool. Rancière understands politics inherently in spatial terms, as for him 'everything in politics turns on the distribution of spaces' (Davidson & Iveson, 2014, p. 4). By applying Rancière's theory to the case of the Hungarian minority in Romania, it will be argued here that civil society activists' legal mobilization initiatives are a manifestation of 'politics' in the Rancièreian sense of the word as they challenge the distribution of public spaces along ethnic lines through pushing forward their integrative vision of the same spaces by their legal mobilization campaigns, thus 'seeking the litigious distribution of places and roles' (Rancière, 2003, p. 201). Rights activists rejected the rule of 'the sensible' dictated by 'linguistic territoriality' that restricts the use of Hungarian to monoethnic spaces and pushed instead for bilingualism in interethnic domains. Furthermore, through mounting legal actions, they have contested the dominant rule of minority agency, according to which the public representation of minority language and culture must be negotiated between minority and majority elites as imposed by the regime of 'unequal accommodation'. Thus, civil society activists also challenged the interethnic consensus about who is entitled to speak in the name of the minority.

According to the *modus operandi* of 'unequal accommodation', professional politicians are responsible for negotiating in which spaces and how Hungarian culture and language can be represented in public. In contrast, civil society actors challenge this order by reaffirming the right and the responsibility of every minority citizen to claim these rights. The present study thus seeks to problematize these ingroup differences, reflected by internal divisions within the Hungarian community between civil society actors engaged in legal mobilization driven by the logic of equality, and the political elite pursuing an ethnocultural agenda by seeking consensus with majority actors.

The first part of the article presents the theoretical frame which will be informed by insights from the legal mobilization literature and Rancière's conceptions of 'politics' and the 'police'. In the second part, this conceptual framework will be applied in a case study of the city of Târgu Mureş. Târgu Mureş was chosen here for empirical investigation as the city represents a microcosm of Hungarian–Romanian relations due to its unique experience of ethnic violence in March 1990 and its ethnic geography, which is quite evenly split between the two ethnic groups,

offering a condensed yet representative picture of the many aspects of Hungarian–Romanian conflict. The empirical case study relies on a dozen interviews conducted with minority politicians, academics, and civil society activists, as well as legal dossiers and news pieces from Romanian and Hungarian-language media from Romania. It will first discuss Hungarians' uphill battles for the city's key institutions in political and administrative arenas and the courts, illuminating the paralysing effects of existing structural constraints that distribute geographical spaces along ethnic lines. The second part will focus on how the Civic Engagement Movement (CEMO), a local Hungarian NGO, managed to find a way to assert minority agency through legal mobilization for the public use of Hungarian-language rights, which previously seemed lost in the turf wars over institutions between local minority and majority political elites.

2 | RANCIÈRE'S CONCEPTS OF 'POLITICS' AND THE 'POLICE'

Most works of nationalism literature interested in minority activism (Bochsler & Szöcsik, 2013; Csergő & Regelmann, 2017; Gherghina & Jigla, 2011; Stroschein, 2012) have been unconcerned with the question of why minority representatives do not seek legal remedy through the courts or other legal means more often when their rights are being compromised. The question is important, because it points to the responsibility of minority representatives for claiming their rights. According to Rancière, it is meaningless to look at whether a group has certain rights or does not; rather, what should be examined is the process of the confirmation or enactment of such rights by the subjects that claim them, which he called 'dissensus' (Rancière, 2010). For Rancière, politics is a form of dissensus (as is art), which 'involves the open-ended set of practices driven by the assumption of equality' (Rancière, 2010, p. 16). For him, 'rights are not a kind of absolute', but are 'always litigious, oriented toward staging conflict in the process of verification', on behalf of those 'who have no part' (Blechman et al., 2005, p. 88). Importantly in relation to this study, litigation is central to Rancière's understanding of politics, as for him 'a political community is a litigious community' (Rancière, 2010, p. 40). The real content of rights provided by law becomes clear through implementation, which determines the practical usefulness and limits of such rights, but it is a contested process. Consequently, what should be investigated is how minority and majority representatives are pushing the existing limits of the interpretation of minority rights, thus influencing the mode of their implementation.

This is the very goal of legal mobilization—that is, pursuing the implementation of rights by using the law to advance social-change-related goals (Zemans, 1983, p. 700). Beside rights claiming through litigation in front of a court, legal mobilization can also imply legal procedures, such as petitioning quasi-judicial, administrative and governmental authorities with the purpose of asserting rights, which sometimes might lead to court procedures. Importantly, pursuing wider social justice goals is inherent to its meaning. Legal mobilization often goes together with political and social mobilization, thus constituting a part of broader strategies of rights seeking, which also include the mobilizational discourses and advocacy strategies of civil society and political actors to press for more rights or a better implementation of existing rights. Thus, according to the concept of legal mobilization, legal action is strongly embedded in the wider social and political context, which also encompasses 'broader frames of social and political action, in which rights claiming is invariably incorporated' (Anagnostou, 2014, p. 4).

However, scholars who study legal mobilization generally see the strategies of rights advocates and their effects as limited and strongly contingent. In fact, Rosenberg (2008) described litigation as 'hollow hope', while Kagan (2003) characterized it as 'inefficient pathology impeding policy responses to basic problems'. Most analysts maintain that the law fundamentally supports existing hierarchies and status quo conventions, even if they also acknowledge that 'sometimes law can be mobilized to challenge and even reconstitute the terms of institutional order' (McCann, 2006). For instance, litigation efforts seeking the installation of bilingual street-name signs mostly failed in Romania, as will be demonstrated in the case study. However, while legal suits have been largely ineffective, quasi-legal actions such as petitioning the anti-discrimination body or local authorities and calling them to account in respect of their responsibilities for enforcing certain rights, were more successful in other areas, as were advocacy campaigns of mobilizing the direct subjects of minority rights. Thus, what minority rights activists have managed to

do is raise the rights consciousness of local Hungarians through naming and challenging existing social wrongs and by defining the overall opportunity structure by exploring strategies for more effective rights assertion. These are the two aspects that have been highlighted by legal mobilization scholars concerning how law matters for the social movements of otherwise marginalized groups (McCann, 2008, p. 511).

Legal mobilization activities of rights advocates will be interpreted as manifestations of 'politics', meaning struggles for equality that challenge the 'police', which Rancière understood as 'a certain way of dividing up the sensible' (Rancière, 2010, p. 16). The 'police' for Rancière is a consensual way of allocating a proper place and role to different groups in society, where everybody has their allotted place in the political community, and which sustains the illusion of egalitarian presuppositions (Rancière, 2011). Thus, for Rancière, the 'police' means the established hierarchical order, yet it refers to more than that as it hides the false promise of equality. The 'police' works by consensus, which is essentially a 'reduction of politics to the police', which is 'the end of politics' (Rancière, 2010, p. 42). By contrast, 'politics' is 'the process by which the "part of those without part" counter all such counts based upon their exclusion [...] politics is the process of disrupting the distribution of parts and roles through a claim about the equality of anyone with everyone' (Tanke, 2011, pp. 42–43). 'Politics' works by disrupting existing categories of the proper and the sensible through the logic of equality, thus challenging what seems natural and taken for granted. The disruption thus provoked is primarily manifested not in overturning power relations and institutional hierarchies, but in challenging perceptions of identities and 'existing hierarchies between discourses and genres' (Rancière, 2010, p. 2). While the 'police' reserves politics for professional politicians and government officials while relegating the rest of the community to the private sphere, political dissensus aims at challenging this status quo by demanding the right to be heard and recognized as a legitimate participant in public affairs.

Rancière thus understood the notions of 'politics' and 'the police' in very specific ways that are different to the more common meanings of these terms. For example, in contrast to the Rancièreian conception of 'politics', not all politics as it is commonly understood involves 'a claim about the equality of anyone with everyone', while his conception of the 'police' is not equivalent to a repressive state apparatus, as usually implied. Oddly enough, what is usually thought of as politics—that is, the actions of political parties, state bodies and administrations—are part of the 'police' for Rancière (Chambers, 2011), while actions outside of these political structures are the main loci of 'politics' for him.

Read through this theoretical frame, the 'unequal accommodation' of the Hungarian minority, which subjects the implementation of minority rights to political bargaining and divides social spaces into two parallel ethnolinguistic worlds, is the manifestation of the 'police' in the Rancièreian sense of the term: 'a symbolic constitution of the social' which defines the proper and sensible place for the minority and the role of minority rights (Rancière, 2010, p. 36). In this social order, political representatives of the minority and the majority negotiate the appropriate and rational means and place for the minority rights granted by law to be carried out in practice. Minority governance through striking political bargains with majority elites is essentially governing through seeking political consensus, which is the primary means of managing the social sphere under the 'police' for Rancière (Olivier, 2014). Addressing the problems and needs of the minority through such informal deals de-politicizes the rest of the community, excluding them from rights assertion and political participation, which are left to the time of elections when they can cast their votes for the minority party. Furthermore, it is inherent to this arrangement that some minority rights will necessarily be lost in the process, as bargaining always requires compromises.

By contrast, civil society activists perform 'politics' when they challenge this status quo based on political bargains and go out of their way to test the waters in terms of judicial and administrative support for a shift in understanding an issue. Civil society activists, by initiating rule of law procedures, have started enacting the rights that are granted by law but are denied by the constraints of the prevailing order, thus have been seeking potential niches through which the enforcement of existing rights may be achieved. This has in some cases closed and in others opened up channels for effective rights assertion. By provoking the political participation of minority citizens who used to have no part in this game, they have inadvertently disturbed the pre-existing power balance between incumbent minority and majority elites, thus challenging what were considered sensible and proper ways of asserting

minority rights. By adopting the disposition of citizens rather than that of a minority, minority activists have claimed agency previously reserved for professional politicians. Through mounting legal initiatives, they have also challenged the separation of ethnic spaces grounded in informal political bargains between minority and majority political elites.

This reading of the situation also paradoxically locates the minority party, RMDSZ, within the category of Rancière's concept of the 'police', similarly to the authorities of the state, as both are involved in sustaining the existing order. The question emerges why the main party representing the minority would not want to encourage legal mobilization (as opposed to civil society actors) for a better implementation of minority rights. The answer lies with the two actors' different situational positions and access to political opportunities—RMDSZ sharing power with Romanian parties, unlike civil society activists. Importantly, however, this difference is also underpinned by different values and collective identities that have an important bearing on how these actors understand their own minority agency. Vanhala, in raising the question why some groups turn to legal mobilization as opposed to others, hypothesized that the key factor determining whether an organization will actively follow equality goals and participate in judicial venues is whether the same organization conceptualizes its constituency as 'rights bearing citizens' (Vanhala, 2011, p. 32). It will be shown here that this difference is fundamental to how different actors define their identity and choose their actions in the current context. While civil society activists mobilize ethnic Hungarians as equal citizens, RMDSZ in its collective action frames stresses the ethnocultural belonging of minority Hungarians, which it tends to portray as being under threat, thereby setting it in the context of an existential struggle.³ While this difference might seem semantic rather than substantial given that civil society activists fight for cultural rights as well, it has fundamental consequences for the dispositions they assume towards the Romanian state. Rights advocates, by assuming the disposition of equal citizens rather than that of a minority, refuse to bargain about the implementation of minority rights granted by law and pursue effective participation in the political community. In contrast, RMDSZ operates by using the ethnic security frame, which renders minority Hungarians into the position of passive observers of the politicking played out by professional parties in the political arena. The next section will outline how systemic processes—labelled here the 'police' after Rancière—'contain, channel, divert, and absorb citizen challenges' in the city of Târgu Mureş (McCann, 2008, p. 4) and (re)distribute space along ethnic lines.

3 | MINORITIES ON THE DEFENSIVE AGAINST RANCIÈRE'S 'POLICE'

In Romania, the legal environment regulating minority language rights is supportive, granting a wide range of rights to individuals belonging to minorities in the most important areas, such as public administration and education. The Law on Public Local Administration (215/2001) and the new administrative code adopted in 2019 (Governmental Emergency Ordinance no. 57/2019) provide for the use of Hungarian in public in places where Hungarians constitute at least 20% of the local population. This can be viewed as a significant achievement given that, according to the 2011 census results, close to 80% of Hungarians living in Romania—that is, around a million people—reside in localities where the use of Hungarian is granted by law (Kiss et al., 2018, p. 172). In the field of public administration, there are fundamentally five areas where domestic law provides for the use of Hungarian: on public and place names signs, in administrative and official procedures, in local and county-level assembly meetings, in publicity or information of public interest, and at events organized by local governments. In other fields, such as in deconcentrated institutions (e.g., tax authorities or post offices), the same provisions of minority language use apply as to local government bodies.

Having such a generous legislative framework helps to sustain the illusion of equality: an important characteristic of Rancière's concept of the 'police', in the face of deficient implementation. The enforcement of minority language rights is largely confined to areas where Hungarians constitute a local majority. Otherwise, language rights have been sporadically enforced, especially in written communication with the authorities and in places where the share of Hungarians remains below 50%. Altogether, the use of Hungarian is comprehensively implemented in around a third of those municipalities where language rights should be granted by law (Kiss et al., 2018, pp. 192–204). A European

Charter for Regional or Minority Languages (ECRML) report found 'the undertaking' of providing public services in Hungarian where 'minorities have a share of over 20% of residents' to be generally unfulfilled (Report of the Committee of Experts on the Charter, 2012, p. 83).

These gaps between legal provisions and implementation can be explained by several factors—for example, the fact that the prefects⁴ (the government's representatives in the counties) responsible for holding the authorities accountable for the implementation of existing legislation typically fail to follow up on the enforcement of minority language provisions, or that officers often do not have a sufficient command of Hungarian, especially where bureaucracy is concerned (Kiss et al., 2018, pp. 204–206). That the extra cost of bilingualism must be borne by local governments poses an additional significant impediment given the dire economic situation of many local governments in Romania. All these factors together constitute important veto points for those not much in favour of seeing or hearing Hungarian in public.

These problems that obstruct minority language use also persist in Târgu Mureş, which used to be the traditional urban centre of Szeklerland, Romania's Hungarian majority region (and the centre of the Magyar Autonomous Region established by Romanian communists between 1950 and 1968). In that city, Hungarians lost their ethnic majority position for the first time in the early 1990s. According to the latest census in 2011, Hungarians constituted 42% of the town's population. Until 2000, city mayors were RMDSZ members, and even after that the party controlled the biggest caucus in the local assembly and has always participated in the local governing coalitions. However, despite the party sharing power in the city's local government, bilingual street-name signs and Hungarian scripts in bilingual schools were lacking, and official communication with the local authorities was not provided in Hungarian, while public information and local assembly meetings were available only in Romanian. Institutions under the authority of the Mureş county administration, such as hospitals and the police, still do not offer communication in Hungarian, even though the head of the county's local government is a representative of RMDSZ. RMDSZ shares responsibility for these shortcomings. The party, instead of fighting for the implementation of bilingualism in these public domains, has focused its efforts on taking control of the leadership of key institutions in the city and establishing Hungarian educational institutions. In order to enhance the symbolic visibility of Hungarian culture, the party also erected 13 public statues of Hungarian personalities in the city centre.

Institutional struggles have defined the city's recent history, as disagreements over educational and cultural institutions between some Hungarian and Romanian residents triggered events that escalated into the violent 'Black March' protests in 1990 when interethnic clashes led to a number of deaths and around 300 injuries (Stroschein, 2012, p. 96). After decades of harsh communist repression in Romania, which involved aggressively persecuting minority culture as the transition to democracy began in early 1990, Hungarians sought to establish their own institutions. Social mobilization started by taking control of the historical Bolyai high school and turning it into a Hungarian-only institution, causing tensions with some local Romanians who regarded such moves as threats to their own identity and signals of irredentism (Roe, 2002, p. 70). As Sherill Stroschein (2012, p. 100) commented on these events, 'the Bolyai School [...] quickly bec[a]me a symbol of Hungarian identity or 'dignity,' a focal point for Hungarian resentment of what they viewed as years of erosion of their linguistic and cultural institutions under the previous regime'. However, Hungarian students' mobilization for Hungarian-language instruction at the University of Medicine and Pharmacy (UMP) in Târgu Mureş in March was the most immediate trigger of Romanian protests, which were joined by the extremist nationalist organization *Vatra Românească* (in English: Romanian Hearth), and which provoked interethnic violence (Stroschein, 2012, p. 104). While the Bolyai school eventually phased out Romanian classes and became an exclusively Hungarian-language institution, some aspects of Hungarian-language instruction at UMP have remained unresolved, indicative of how Hungarians have been losing ground in the last two decades.

Scholarly accounts of the city's ethnic relations (Roe, 2002, 2005; Stroschein, 2012) sought to explain interethnic contention by capturing the dynamics of ethnic antagonisms without problematizing the unequal power relations between the titular majority and the minority. While these works focus on the events of early 1990s when local power relations were still uncertain, the following period plainly revealed how the playing field tilted in favour of local Romanians, relegating Hungarians to an underdog position, especially in tense situations. A notable example is that of

UMP, where the university's leadership has successfully prevented the creation of an autonomous study line in Hungarian, which in principle is a right granted by the law on education. UMP occupies a central role in the city's symbolic spaces as the institution contributing to the city's identity as a medical hub in Romania. In Târgu Mureş, many influential public figures originate from the medical profession, among them the previous mayor who held the latter position for 20 years.⁵ UMP was originally created as a Hungarian-language teaching university through a Romanian royal decree in 1945, while teaching in Romanian was first introduced in 1962 (Péterffy & Péterffy, 2018, p. 64). Ever since, the university has functioned as a bilingual institution. In 2011, the Romanian government adopted a new law on education according to which multilingual universities, including UMP, shall establish autonomous departments/units with teaching in a minority language, 'with [their] own rules of procedure, an independent management level or university autonomy in the organization of teaching activities in minority language, as study lines or study sections'.⁶ However, the university's senate invoked their institutional autonomy to resist the creation of such an autonomous Hungarian study section, an activity whose legitimacy was confirmed by the courts in 2012.⁷ In the face of the resistance from UMP's leadership, the liberal government led by prime minister Mihai Răzvan Ungureanu tried to introduce a government decision (H.G. no. 230/2012) that would have enforced the creation of the Hungarian autonomous study line, which was struck down by the courts and contributed to the fall of the government after just a few months in office due to a no-confidence vote by the opposition social democrats, triggered in part by this issue.

Although the lack of educational autonomy of the Hungarian study line does not necessarily imply the infringement of the right to education in Hungarian (as Hungarian classes have continued at the university), in practice, the university's leadership has gradually reduced the scope of Hungarian teaching since 2012. In the absence of any institutional autonomy of the Hungarian faculty, the university's senate can easily overrule Hungarian professors, who constitute only one third of the senate's membership. A new provision was introduced into the university charter according to which all practical training should be held exclusively in Romanian. This was challenged by the Hungarian Association for Medical and Pharmaceutical Education in Romania (the professional organization of Hungarian medical doctors and pharmacists in Romania) in a lawsuit against the university in 2012, which they lost before the appeal court in Târgu Mureş in 2014.⁸ In parallel with this legal case, in 2013, they filed a petition before the Romanian equality body, the National Council Combatting Discrimination (NCCD), claiming that UMP had discriminated against Hungarian students, but the equality body rejected their request, which decision was also affirmed by the courts, including the high court in 2019.⁹

In the meantime, the creation of an autonomous Hungarian study line continued to be denied under the pretext of not having enough Hungarian professors for accreditation purposes, while the recruitment of new professors was controlled and effectively constrained by the university senate (Szatmar.ro, 2013). While the university's leadership has been busy marginalizing Hungarian education at UMP, it created a new autonomous department for teaching in English in 2019 (Transindex, 2019). In 2018, UMP merged with another university, the University of Petru Maior, against the will of the Hungarian professors at UMP, whose representation at the university was further reduced from 30% to 20% (Civilek.hu., 2018). In the meantime, the law on education which foresaw the creation of the autonomous Hungarian study line is still in force, yet remains non-implemented. While the conflict about UMP plays out along ethnic lines in the city, pitting Hungarian professors against Romanian ones, it is equally about who controls the wealth that medical education brings to the city.

The issue has become a hot potato for RMDSZ. Although it joined the legal case against the university's charter initiated by the professors on behalf of the Hungarian Association for Medical and Pharmaceutical Education in Romania, the feeling that the party had left the Hungarian professors to their own devices was widespread even before the court rejected their petition in 2014 (Transindex, 2013). Although from December 2009 to May 2012, and in most of 2014, RMDSZ participated in various governments in Bucharest, it seemed to lack the means to intervene effectively in this situation, and ever since has shied away from publicly putting this issue on the agenda with Romanian partners. The problem is not treated by RMDSZ politicians as an obvious case of the violation of the rights enshrined in the Romanian law of higher education, but rather as a minority issue, concerning which it is better not to push things too far lest it make everything worse.¹⁰

Similarly, local interests have jeopardized the resolution of the legal status of the Hungarian Catholic high school, II. Rákóczi Ferenc. The school was meant to take over the historic building of the Romanian high school Unirea in the city centre, which was given back to the Roman Catholic Church, which in Transylvania is a traditional Hungarian church, in 2004 through property restitution. Until the 1948 nationalizations by the communists, the building was home to the Catholic high school, offering Hungarian-language instruction in the city, where the share of Hungarians was still above 70%. However, despite the positive restitution decision, there is little hope that the Romanian school will ever move out of the building, making way for a Hungarian school (Maszol, 2016). The restitution of the school building to the church in 2004 was challenged in court by the Romanian mayor of the city, but the high court ruled in favour of the church. In 2014, the local government approved the refoundation of the Hungarian Catholic high school, which started operating on Unirea's premises, the two schools sharing the same buildings. According to the rules on restitution, the Catholic Church had to let the Romanian school function in the building until 2009. However, the local government approved the re-establishment of the Hungarian Catholic school under the condition that the Romanian school could stay in the building for 20 more years.

In the meantime, the school leadership of Unirea challenged the Hungarian school's operating permit at the ministry of education, which started an investigation into the school's foundation documents. Consequently, the county prefecture and the prosecutor from the National Anticorruption Directorate (in Romanian: *Direcția Națională Anticorupție*; DNA) challenged the legality of the school's foundation, arguing that the process of the school's establishment was not fully in line with legal and formal requirements. Amidst ongoing court cases, the school continues to operate in a legal limbo, and a solution seems out of reach.¹¹ The real stake in this game seems to be control over the school building. Dorin Florea, the city's mayor at the time, argued that the church should give up on the building in which an institution that serves national interests is operating.¹² In the meantime, the local Romanian media and politicians have continued to question the legality of the restitution of the school building to the Catholic Church; however, this has not yielded any results owing to the legally binding decision of the high court. Hungarian parents protested several times in 2017, supported by the Catholic archbishop of Alba Iulia, against the continuing legal limbo and the intimidation of parents by the DNA. Many parents were called in for questioning by the anti-corruption body which inquired whether they had enrolled their children in the school under duress and what they knew about the school's foundation (Krónika, 2017).

How Hungarians have been losing ground in the last two decades in the city is clearly demonstrated by the hopeless fights over UMP and the Catholic school, which give a glimpse into the difficulties the fight for the symbolic occupation of spaces involves. It was civil society activists—primarily professors, teachers and parents—who took up the legal fight in the courts. While RMDSZ was willing to take part in these defensive fights that were imposed on the community in the form of majority counter-mobilization, it has been much more reluctant to support legal mobilization efforts by civil society activists, who proactively stood up for rights that had been granted by law but never existed in practice.

4 | MINORITIES ON THE OFFENSIVE THROUGH POLITICAL DISSENSUS

The inferiority and marginal position of Hungarian language and culture in the city goes largely unquestioned not only by local Romanians but also by most Hungarians.¹³ To what extent this logic permeates the thinking of both Romanians and Hungarians was exposed by recent survey research that showed that the anti-Hungarian attitudes of Romanians were most sharply manifested in negative attitudes towards the language, and rejection of any aspects of linguistic symmetry in the public domain (Toró & Kiss, 2020). The research also revealed that Hungarians did not perceive themselves as being discriminated against—which the authors explained by Hungarians lacking rights consciousness, also because political elites rarely use the language of anti-discrimination. The strongly discriminatory elements of linguistic norms advocated by the majority were simply not interpreted in an anti-discrimination frame by the minority (Toró & Kiss, 2020, p. 41), which shows how this discriminatory order has been taken for granted by

minority Hungarians—that is, how much this way of looking at things has become ‘the law of the police, where everybody is in his own place, with his own job and his own culture ...’. (Blechman et al., 2005, p. 292).

For Rancière (2010, p. 69), ‘dissensus is not a conflict of interests, opinions or values; it is a division inserted in ‘common sense’: a dispute over what is given and about the frame within which we see something as given’. Breaking with this law of the ‘police’ that assigns to persons belonging to the minority ‘their place in (or outside of) the symbolic space of the community’ starts with minority activists speaking the language of equality, by which they try to raise awareness of rights violations (Blechman et al., 2005, p. 292). In practice, this is done through the social mobilization of people for advocacy campaigns, which CEMO has used on many occasions to reinforce its legal initiatives—to be discussed below. Behaving as equal citizens and demanding that the state treat them as such rather than as members of a national minority has been another central feature of CEMO’s strategy. For instance, while addressing rights violations in the field of education, activists prefer to turn directly to the ministry of education rather than to the secretariat of minorities led by RMDSZ, which in principle should deal with educational matters if these concern minorities.

This is what happened in the village of Koronka on the outskirts of Târgu Mureş, where Hungarian parents organized themselves with the help of CEMO against the appointment of a new school director. The situation involved a mixed-language school where Hungarian pupils constituted the majority, yet the county school inspectorate replaced the ethnic Hungarian headmaster with a Romanian director against the wishes of most parents and teachers (Maszol, 2017). CEMO directly addressed the ministry of education with their request, which ordered the inspectorate to reinstate the Hungarian director. The inclusion of the ministry of education in the resolution of minority educational issues often tends to be the best way to settle problems, according to CEMO’s experience. This goes against the rules of the prevailing minority rights regime, according to which the responsibility to resolve issues related to minority rights belongs to RMDSZ, which is why other actors belonging to the minority generally shy away from directly turning to national public institutions. For instance, the shortage of Hungarian-language textbooks in primary and secondary schools has been a pressing problem during the last few years. CEMO tried to convince the Alliance of Hungarian Pedagogues in Romania, the professional organization of Hungarian teachers, to present these issues to the ministry of education. However, the alliance did not want to institutionalize this new channel of interest representation as they feared circumventing RMDSZ, despite the party’s failure to effectively address this problem.¹⁴

Activists emphasize that the state must treat Hungarians as equal citizens and should meet its legal obligations that are due to them as such. The main issue is not the content of the rights that are being violated, but the fact that the rights granted by law are not being respected.¹⁵ While consciously adopting this disposition against all the odds, rights advocates also express deliberate trust in Romanian authorities that is based on principled expectations rather than experience. They approach the authorities with hope, behaving as if such expectations could be clearly anticipated, while ignoring the negative record of the state that systematically violates these rights. They act as if they had the rights they do not have (Rancière, 2010, p. 69), thus through dissensus enact the rights that belong to them, but which are denied by the confining order.

Many cases prove that even if the Romanian state authorities act in bad faith and try to limit the implementation of minority rights provisions, legal mobilization can lead to positive outcomes. While litigation in the narrow sense (i.e., court procedures) has rarely led to a better enforcement of minority rights, other legal actions such as procedures launched with the NCCD or petitions submitted to public authorities such as local governments, prefects or ministries have sometimes resulted in successful rights assertion.

4.1 | Bilingual street-name signs

Especially fierce legal battles surrounded the issue of place-name signs in the 1990s, as both communities viewed such inscriptions as markers of territorial ownership, while for Hungarian citizens historical place names

represented the preservation of the link of the community to the history of these places and their continued presence (Csergő, 2007, p. 119). Bilingual public signs became an issue in multi-ethnic localities where both communities live in substantial numbers, while in the Hungarian majority areas of Harghita and Covasna counties the installation of Hungarian signs met with less resistance. The Romanian government elected in 1996 provided for installing bilingual place-name signs and disseminating public information in minority languages through an emergency ordinance in 1997 (no. 22/1997). However, in many eligible localities, mayors blocked the placement of bilingual signs, while many of the signs that were installed were vandalized—in some places encouraged by the mayors, such as in Cluj (Csergő, 2007, p. 126). Many prefects refused to implement this provision, which they argued was unconstitutional. The legal situation was cleared up once the relevant ordinance was passed by legislation in 2001. RMDSZ fought to recover historical street-name signs in cities like Cluj and Târgu Mureş after the authority for naming places was transferred to local governments in 1997, although in both cities the mayors blocked their implementation (Kiss et al., 2018, p. 146). Discouraged by these futile political battles, RMDSZ practically stopped its lobbying for bilingual place-name signs after the early 2000s and subsequently tried to take linguistic rights off the agenda, which were picked up by civil society activists in Cluj and Târgu Mureş.

In Târgu Mureş, the NGO CEMO started its legal mobilization for bilingual street-name signs in the mid-2010s, yet its efforts remained largely unsuccessful. CEMO's legal action started with a complaint submitted to the NCCD in 2014, which found the lack of bilingual street-name signs to be discriminatory. However, the mayor's office successfully appealed this decision at the court of appeal. Subsequently, CEMO together with the NCCD challenged the appeal court's ruling before the high court in June 2015, which rejected their petition, so this case was lost at the highest level (Gazda, 2017). The main reason why this litigation failed was that the Law on Local Public Administration 215/2001 leaves street-name signs in the grey zone by not explicitly regulating them, but only addressing the names of 'localities', which must be bilingual when the share of minorities surpasses 20%. However, the Committee of Experts of the ECRML interpreted the obligation signed and ratified by Romania in Article 10 Paragraph 2/g that 'traditional and correct forms of place names in regional and minority languages' should also apply to street-name signs during its monitoring mechanism (Report of the Committee of Experts on the Charter, 2012, p. 83). However, the mayor's office and the court of appeal argued that the ECRML should be implemented through internal legislation before it could be applied domestically, which was accepted by the courts. Romania's having signed the ECRML seems to provide a fig leaf for the denial of minority rights rather than a guarantee of better rights assertion, as this aspect of the ECRML remains unenforced in domestic legislation.

CEMO also organized an advocacy campaign complementing its legal actions between November 2014 and March 2015 when activists erected around 180 bilingual street-name plates on their private properties. The police responded by fining activists and property owners with penalties of a few thousand euros on the basis that putting out street-name signs amounted to illegal advertising. Although many private properties displayed monolingual street-name signs on their gates or walls, only those owners were fined who put out bilingual signs. After CEMO sued the local police in court, the court in 2016 cancelled the fines and declared that the police action was abusive and disproportionate (CEMO, 2016).

CEMO also took legal action in relation to bilingual street-names against the city of Satu Mare, where in 2016 a representative of RMDSZ became mayor. The Hungarian mayor rejected CEMO's demand to install bilingual street-name signs by arguing that the city had no such legal obligation based on the laws of Romania. He further argued that installing bilingual signs would be financially too onerous for the city's local government. CEMO lost this case in court (Erdélyi Napló, 2017). Nevertheless, the local government ultimately installed bilingual street-name signs in a district at its own initiative, which was legally challenged by the county prefect who argued that the law on local public administration did not refer to street-name signs (Krónika, 2018a). The prefecture lost this lawsuit in a legally binding decision in 2018, so the courts approved the local government's initiative of displaying Hungarian street-name signs (Krónika, 2018b). This case shows that when the law is permissive yet not obliging, the implementation

of minority language rights is allowed but depends on the goodwill of local power holders. In such cases, litigation and other forms of rights claiming have largely failed to produce favourable outcomes, revealing the effective limits of these rights.

4.2 | Communication with public authorities

CEMO also raised complaints with the local government in Târgu Mureş that programmes organized by the municipality were rarely advertised in Hungarian (Itthon.ma, 2018). Annoyed at their pestering, the mayor, known for his anti-Hungarian attitudes, began to publish information in Hungarian as well. Activists also tested the local government's readiness to accept administrative requests in Hungarian by showing up in person as citizens requesting service in Hungarian. As the local administration was not up to the task, CEMO sued them, after which, without waiting for the court's decision, the former hired a Hungarian-speaking administrative clerk.¹⁶ In the last 4 years, the city local government has begun to translate most of its communication into Hungarian, while RMDSZ deputies have started speaking in Hungarian in assembly meetings at which simultaneous translation was organized. Such recent progress is probably not independent of the activities of rights advocates, who, through their petitioning, have often shamed RMDSZ representatives.

4.3 | The bilingual linguistic landscape in schools

Another subject of advocacy picked up by CEMO has been the lack of a bilingual linguistic landscape, such as information of public interest, the names of classrooms, bulletin boards and homepages in elementary and middle schools in the city's bilingual schools—that is schools in which education is conducted with parallel Hungarian and Romanian classes, which includes most schools in the city (Kiss et al., 2018, p. 145). In the mixed-language schools, the internal landscape was exclusively Romanian before CEMO started its legal action, which runs counter to the relevant legal provisions defined by the law on public administration.¹⁷ The schools' linguistic landscape reflects the generally marginal status of Hungarian pupils in these schools, who also tend to occupy classrooms in worse physical condition. The unequal distribution of resources and the lack of Hungarian signs in school interiors in mixed-language schools reinforce asymmetrical power relations between minority and majority students. This hierarchical ordering reflected in the symbolic and linguistic organization of space puts minority students in a subordinate position and affects the socialization processes of schoolchildren (Bálványos Institute and AGFI, 2021, pp. 21–27).

CEMO filed a complaint against the local government before the NCCD in 2013 because of the monolingualism of the whole school network in Târgu Mureş. The NCCD found that the lack of bilingual signs in mixed-language schools violated the law on anti-discrimination and called on the schools to correct this situation.¹⁸ The equality body also put together a seven-point list of criteria for schools to follow in bilingual educational institutions. As most school interiors remained monolingual, CEMO initiated a campaign of donating bilingual signs to schools, with Hungarian parents organizing a series of flash mobs in front of one school to convince the school director to accept their donations of bilingual inscriptions (CEMO, 2016, p. 49). The Directorate for Investment and Reparation of Schools of the Mayor's Office of Târgu Mureş threatened schools with a fine if they 'illegally' erected signs 'donated by third parties'. Subsequently, CEMO sued the Directorate for breaking the law in 2016 but lost this case for lack of standing (CEMO, 2016, pp. 53–54). Since the schools continued to refuse to adhere to the criteria defined by NCCD, in 2016 CEMO brought petitions against 31 educational institutions in Târgu Mureş at the NCCD. The NCCD found that 17 of these institutions had discriminated against Hungarian students and gave them 3 months to stop the discrimination against Hungarian pupils. Some schools began to use bilingual signs in response to this legal procedure, yet many of the schools refuse to comply with the NCCD's decision (CEMO, 2017). Alongside its initiatives related

to the NCCD, CEMO also tried to fight for bilingual signs in schools through the local city council. Their activists managed to convince representatives of the progressive, multi-ethnic local party, *Partidul Oameni Liberi* (POL: Party of Free People) to support their cause, and as a result, the local assembly adopted a decision which ordered mixed-language schools to use bilingual scripts. However, the prefect struck down this local decision, and this position was also maintained by the courts. During the 2021 local elections, RMDSZ won the mayoral seat and formed a strong caucus in the local assembly, which might help to resolve this issue if RMDSZ treats it as a priority.¹⁹

Primarily, however, Hungarian parents would be the most able to claim this right through participating in the local school boards of the institutions at which their children study. In principle, any parent can volunteer to participate on the school boards that make decisions about such matters, yet Hungarian parents are underrepresented, by their own choice, on most school boards in Mureş County. If they were more willing to voluntarily participate in school boards, they would have more opportunity to raise complaints more successfully.

5 | CONCLUSION

The institutional battles of the last three decades have shown how the rules of the prevailing order coined the 'police' by Rancière constrain minority action under the duress of the symbolic distribution of public spaces in the city of Târgu Mureş. This article was designed to shed light on the spatial nature of such ethnic contests that were fought first over the control of key institutions in the city, and more recently over the city's general linguistic environment. The dominant minority rights regime of 'unequal accommodation' and 'linguistic territoriality' pitted not only majority against minority but sometimes also the minority political elite against the rest of the minority community. Although RMDSZ has compromised the cause of minority language rights since the late 1990s, the shifting of its priorities was not a free choice, but a path followed due to exigency imposed by the structural constraints of the nationalizing state. It should be emphasized that most of the achievements at the community level in terms of setting up a Hungarian institutional framework in Romania were accomplished by RMDSZ during the last three decades. What could not be achieved through political means could be implemented through rights advocacy, such as providing for the use of Hungarian in public administration or introducing bilingual signs in some public schools in Târgu Mureş. Therefore, rights advocacy seems to be complementary to political bargaining—that is, for fine-tuning implementation when the legal framework is already in place.

As the community has lost significant ground due to majority counter-mobilization exemplified by the struggles over the medical university and the Catholic high school, CEMO through its direct actions managed to tap into growing disconnect between RMDSZ and its popular base, somewhat reshaping the political landscape at the local level. By performing the 'politics of dissensus', they have rejected the ethnonationalist logic of contested symbolic spaces by raising demands for equality and bilingualism in integrated social spaces. Civil society representatives went on the offensive through their legal mobilization initiatives that challenged the prevailing order of the ethnic spatialization of the city, which has been taken for granted by both minority and majority citizens. Through their legal action, they also challenged the hegemonic position of RMDSZ and claimed agency for minority citizens. CEMO through its initiatives has shamed RMDSZ for its inaction in the area of linguistic and educational rights, while openly attacking the party on social media platforms and in the Hungarian minority media. Moreover, CEMO cooperated with a local multi-ethnic party, POL, to offer an alternative vision of representation for Hungarian minority citizens instead of RMDSZ's ethnic agenda. This brought them into direct conflict with RMDSZ, which regarded CEMO as a threat to its position in the city. This confrontation severely damaged CEMO, and as a result it ceased operating at the end of 2020.

The legal mobilization initiatives discussed here also reveal that part of the reason why the minority rights of Hungarians remain unenforced is that the latter do not demand them strongly enough. Asking for rights is the first step in asserting them—a tactic which has, surprisingly, worked well in terms of demanding communication in Hungarian language with and by the local authorities, and regarding some aspects of educational rights.

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ENDNOTES

- ¹ Around half of Hungarians live in such localities. Hungarians constitute the most numerous minority in Romania (1.2 million people, making up 6.1% of the population).
- ² Interview with Enikő Szigeti, Director of CEMO, Budapest, 28 November 2019.
- ³ Speech by Hunor Kelemen, the president of RMDSZ, 6 October 2020. <https://www.rmdsz.ro/aktualis/hirek/Kelemen-Hunor-oktober-6-i-beszede>.
- ⁴ The prefects are the government's representatives in the 41 counties and the municipality of Bucharest. They serve as the heads of the devolved bodies of the ministries. Although prefects do not have authority over local administrative organs, if they find an act of the local or county government to contravene a law, they may challenge the violating act in an administrative court.
- ⁵ Interview with András László Kósa, sociologist, Bucharest, 19 July 2020.
- ⁶ Article 135 of the Law on Education No. 1/2011.
- ⁷ Sentence nr. 91. Appeal Court of Târgu Mureş/Marosvásárhely, 11 May 2012.
- ⁸ Decision nr. 2350/R, Appeal Court of Târgu Mureş, 23.04.2014.
- ⁹ Dossier nr. 7917/2/2013, Decision nr. 2977, High Court of Cassation and Justice of Romania, 4 June 2019.
- ¹⁰ Interview with Etelka Tamás-Balha, Târgu Mureş, 19 December 2019.
- ¹¹ Interview with an educational professional, Târgu Mureş, 20 December 2019.
- ¹² Facebook post of former mayor, Dorin Florea, 18 January 2017. <https://www.facebook.com/dr.dorin.florea/posts/1211492425632116>.
- ¹³ Interview with Enikő Szigeti. Director of CEMO, Budapest, 28 November 2019.
- ¹⁴ Interview with Enikő Szigeti. Director of CEMO, Budapest, 28 November 2019.
- ¹⁵ Interview with Enikő Szigeti. Director of CEMO, Budapest, 28 November 2019.
- ¹⁶ Interview with Enikő Szigeti. Director of CEMO, Budapest, 28 November 2019.
- ¹⁷ Law No. 1/2011 on National Education and Law No. 215/2001 on Local Public Administration.
- ¹⁸ NCCD, Decision no. 415/16.07.2014.
- ¹⁹ Email correspondence with Enikő Szigeti, 27 April 2021.

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