

MEMORANDUM
**on the special legal status regarding administrative autonomy and economic
development in *Szeklerland***

Preamble

We, the undersigned, Members of Parliament and elected local government officials from *Szeklerland* (Transylvania, Romania), in full awareness of our responsibilities concerning the prosperity of our region and community, with this Memorandum, intend to call all the problems that hinder the organic development of *Szeklerland* to the attention of public opinion both in Romania and the European Union. We would also like to stress that these problems endanger the welfare and the survival of the Hungarian national community that has been living in this particular region as the absolute majority population for centuries.

Geographically, the historical *Szeklerland* is located in the centre of Romania. It occupies 12,000 square kilometres and is inhabited by almost one million people, more than three-quarters of which are Hungarians. For centuries, *The Szeklerland* has developed into a unitary region in all regards, that is, geographically, historically, economically, culturally and politically alike. However, in the 20th century it underwent major changes, i. e., its territory has been chopped up. Nowadays, the entire territory of Harghita County and Covasna County as well as a significant part of Mureş County are inhabited by *Szeklers*, while some Hungarian settlements have been excluded from these counties. Historically, from the 13th century onwards, the units of territorial organisation of *Szekler* society were the so-called 'seats' (in Hungarian, 'szék'). These were Marosszék, Udvarhelyszék, Csíkszék, Gyergyószék, Kászonszék, Sepsiszék, Kézdiszék, Orbaiszék and Bardocz-Miklósvárszék – forming together the historical *Szeklerland*. Just like in the case of the Transylvanian Saxon Seats, the autonomy of the *Szekler* Seats entailed a local government with an administration of its own, a specific social and administrative structure, special rights and special legal status, including tax exemption.

In spite of the abolition of the Seats system and of almost fifty years of harsh oppression by the Communist totalitarian regime, the emblematic *Szekler* identity has not been broken and the endeavours for autonomy of endless lines of generations have not been quenched. Today, according to European legal practice, it would be again possible to grant special legal status to *Szeklerland*. The determination to do away with the *Szekler* identity, however, still lingers on either in a straightforward or a concealed manner.

Since the regime change in 1989, the Hungarian national community in Romania has continuously been fighting to achieve fully equal rights, similar to those enjoyed by the Romanian majority. The means to which this community resorted in order to achieve its goals have always been democratic as well as exclusively peaceful and legal. According to the leaders of the Hungarian community, the solution should be the enactment of a legal framework guaranteeing the introduction of various forms of community autonomy based on the principle of internal self-determination. The most important steps of the process of reaching autonomy in the last 20 years of slow democratisation were the following:

- Since its foundation in 1990, the Democratic Alliance of Hungarians in Romania (DAHR), the organisation representing the Hungarian community in the Romanian legislature, voiced the Hungarian claims for autonomy, specifying the legal forms of the latter as well as the various types of community self-government. The Kolozsvár / Cluj-Napoca Declaration (signed on the 24th of October 1992) formulates expressly these demands.
- On the occasion of Romania's admission to the Council of Europe (the 26th of August 1993), the DAHR presented a memorandum to the Parliamentary Assembly of the Council of Europe, wherein the organisation repeatedly asserted the rightful claim of the Hungarian community in Romania to internal self-determination and requested the acknowledgment of Hungarians as a constituent entity of the Romanian state. On this occasion, an Opinion of the Council of Europe (No. 176/1993) was made public and Romania assumed full responsibility to comply with the recommendations formulated therein. Nonetheless, no legal framework designed to implement community autonomy has been established ever since.
- In autumn 1993 (the 14th of November), the DAHR submitted to the Romanian parliament its own bill on national minorities and autonomous communities. This document laid down a model of self-government on three-levels; namely, the levels of cultural autonomy, local autonomy with special status and the third one, the regional territorial autonomy. The Romanian majority in the legislative body did not vote the bill justifying their action with the allegedly unconstitutional character of the document.
- During the amendment of the Romanian Constitution (in 2003), the DAHR's attempt to include in it the rights of minorities to cultural and territorial autonomy remained unsuccessful.
- The Hungarian National Council of Transylvania (HNCT – in Hungarian, *Erdélyi Magyar Nemzeti Tanács*, EMNT) was founded on the 15th of December 2003 as a partly civic and partly political movement with the purpose of expressing the widespread social support for the forms of autonomy envisaged by the Hungarian community.
- In 2004, the Romanian Parliament rejected the draft 'statute' on the territorial autonomy of *Szeklerland* by declaring it unconstitutional (2004). A second rejection was the reaction to the bill submitted in the following parliamentary session (2005).
- In 2004, the DAHR drafted a Bill on the Legal Status of National Minorities, which was acclaimed even by the Venice Commission. The Romanian Cabinet supported the bill outlining the legal framework of cultural autonomy to be granted to minority communities and, in 2005, submitted it to Parliament. Once received by Parliament, various standing committees were supposed to review the document. However, their 'work' on the bill came to a deadlock and no report has been filed on it ever since.
- Thirty *Szekler* local governments initiated local referenda on creating through the voluntary association of the respective settlements the administrative region called *Szeklerland*, which was supposed to enjoy special legal status. The resolutions on the

announcement of the referenda's day were nullified without exception by the prefects (in 2006-2007).

- In 2007, more than 210,000 voters from *Szeklerland* voted 'yes' to the territorial autonomy of the region.
- On the one hand, thanks to various measures taken by Parliament and Government alike in the last five years, education in native language and the right to use one's native language in local administration have been augmented. On the other hand, even if people are entitled to use their first language in court, judges – in various localities – prevent them from exercising this right.
- The most significant objective for the coming years will be the legal recognition of collective rights and their implementation.

The present memorandum aims at taking another resolute step towards achieving these goals. It asserts that the 1,5 million strong Hungarian community in Romania, including the *Szekler* (in Hungarian 'székely') population representing the absolute regional majority in *Szeklerland*, are not willing to give up neither their native land, nor their specific community identity.

Problems in *Szeklerland*: factors endangering the organic regional development and the specific identity of its inhabitants

20 years after the regime change entailing the creation of democratic institutions and the establishment of rule of law, there are still numerous factors hindering the economic, social, and political blossoming of *Szeklerland* and the emancipation of its inhabitants.

Institutional hindrances to the use of the native language

Although legislation in force, governing various areas of the public sphere, allows persons belonging to national minorities to use their first language, the native language of Hungarians representing the majority population in *Szeklerland* is still considered of lesser status than the Romanian language. For instance:

- Official documents published by state authorities (such as administrative and educational institutions) are written solely in Romanian.
- In the so-called 'de-concentrated institutions' of central administration, clerks speak only Romanian.

The postponement of administrative decentralisation is a direct consequence of the principle of 'the centralised national state'.

Romania's administrative system is still strongly centralised. In case of several public services – such as education, culture, employment, social benefits, public order and control over economic activities – most administrative competencies have not been transferred to elected bodies, but to de-concentrated institutions led by chief executives appointed by state officials in central administration. In what regards their decisions and management practices,

these executives most often represent state interests and secure that such interests prevail over the legitimate interests of local communities.

Disproportionate ethnic representation in regional offices of central administration

The prevalence of the Romanian national state's interests can be noticed best in the case of appointing the chief executives of de-concentrated institutions. While the proportion of the Hungarian population in the region is 80%, the ratio of appointed Hungarian officials is less than 20%.

Discrimination in economy and regarding the state budget

It can be proved that when the DAHR is part of the government coalition; the financial support and budget allocations for the *Szekler* counties increase. However, if the DAHR is in the opposition, which was the case for more than a decade, the policy targeting the isolation of the *Szeklerland* (re)gains (its) impetus. The funds for supporting the system of *Szekler* cultural and social institutions are reduced to a level on which their normal functioning cannot be secured. In addition, budget allocations for investments in process continue to diminish steadily.

The delay of infrastructure development

The development of *Szeklerland's* infrastructure progresses in a deliberately slow pace or in some cases is neglected altogether. In contrast, other rather backward regions of the country, especially Moldova or the southern part of Romania experience swift development. According to traditional political practice, the transferring of budgetary allocations for infrastructure development should be perceived as a reward for the 'correct' political behaviour of local officials, while the withholding of such funds as punishment for 'incorrect' political behaviour. In 2008, the newly formed Cabinet promised – probably as part of its own propaganda – that the development of *Szeklerland* would still receive special attention. However, the massive infrastructure development initiated five years ago, as a result of the DAHR's presence in the coalition government, lost its momentum in the meantime. Moreover, the rhythm of the works slowed down so much that even the continuation of the repairs already in progress can be called into question.

The exploitation and the sell of natural resources are state monopoly

Generally, the exploitation of natural resources in Romania is in the hands of the state, more precisely, is state monopoly. If one took into account the specific situation, he/she could easily realise that in case of *Szekler* strategic reserves – first and foremost salt and mineral water – intervention carried out by the central state administration has ethnic connotations. In addition, state control regarding the exploitation of natural resources also means that licences and contracts are awarded on a preferential basis, excluding local investors. Furthermore, ambiguous regulations and laws create unnecessary difficulties for owners in what concerns investments. Moreover, the duties charged for exploitation represent revenues for the central state budget. The situation in forestry is not better either. State control characterizes this branch of economy, too: the activity of private businesses and local collective ownerships is hindered through bureaucratic and other means.

Issues of environmental protection

Szeklerland is defenceless against the state, in this respect, too, since environmental protection and the monitoring of potentially hazardous activities is not a competency of local elected bodies, but of ones appointed and controlled by the state. This environmental protection practice, which often goes against regional interests, has a negative impact not only upon the quality of life, but, in the long run, it has a detrimental effect on the main branches of *Szeklerland*'s regional economy, namely tourism, logging and wood processing.

Delays in the restitution of confiscated private property

Though the process of returning properties confiscated by the Communist regime to their previous owners, progresses at a very slow pace throughout the country, this 'practice' is far more obvious in *Szeklerland*, especially when it comes to the former assets of the Hungarian historical churches and the so-called Csíki Private Property.

The Communist regime seized 2,140 properties from the Transylvanian-Hungarian historical churches. If the state does not return the illegally confiscated plots of land and buildings belonging to the four historical religious denominations – the Roman Catholic, the Calvinist, the Lutheran and the Unitarian –, the churches will be unable to continue the spiritual and charitable work they undertook for many centuries in order to secure the survival and the prosperity of the Hungarian community in Transylvania. Laws on restitution were passed as early as two decades ago. Still, more than one-third of the former assets of Hungarian churches in *Szeklerland* have not been returned to their rightful owners. Furthermore, no process of compensation has been initiated with regard to assets that cannot be returned.

The lack of a state-financed Hungarian language university

After the regime change, the Hungarian community expressed several times its unwavering intent to re-establish the Bolyai University, which has been abolished during the Communist era. The elected representatives of the Hungarian minority drafted numerous official statements, communiqués, bills, and decrees. In order to secure education in the native language, the DAHR proposed a bill on education, which was submitted to Parliament by the said organisation as a citizens's initiative bearing the signatures of more than 500,000 ethnic Hungarians. Later, however, the Parliament did not pass the bill. Only in 1999, did the Romanian Parliament pass some of the stipulations contained in this bill. However, these did not suffice for the re-establishment of the state-financed Hungarian language university. In spite of the human rights guaranteed by the Constitution and the law on education, notwithstanding various international treaties signed by Romania and the realities of the European Union, not a single tangible arrangement has been made thus far in order to fulfil this request. The establishment of an independent Hungarian university is supported by the fact that 6.6% of the country's population are ethnic Hungarians, while the proportion of Hungarian students is only 4.4%. Needless to say, not all of them study in their native language. The most notable disadvantage is the fact that the academic fields of study connected to the most important branches of the national economy (engineering and agricultural sciences) are not taught in the native language. The justness of the Hungarian request is highlighted by positive European practice: the Swedes in Finland, the Sami in Norway, the Gagauz people in the Republic of Moldova, the Albanians in Macedonia all have one or more universities of their own where their youth are taught in their respective native language. The re-establishment of an independent, state-financed Hungarian university is

quintessential for the *Szeklerland*, since the multi-centred structure designed for mass education would allow the higher education of the *Szekler* community, too.

The hazard and practice of artificial changes in ethnic proportions

Although the Convention for the Protection of National Minorities ratified by Romania prohibits the artificial change of the ethnic composition of regions where minorities live in significant numbers, in the case of *Szeklerland*, this kind of totalitarian practice and policy continues even after two decades from the regime's fall. The fact that 'the Romanian majority' lives as a local minority in a given region (the *Szeklerland*), is deemed incompatible with the idea of the Romanian national state by some Romanian politicians. This point is clearly proven by the fact that now, when the DAHR is an opposition party in the Romanian Parliament, the number of Hungarian civil servants in *Szeklerland* is being drastically reduced. Today, the proportion of ethnic Hungarians in state institutions in *Szeklerland* is far lower than their proportion in the region's population, while the opposite is true for the Romanian population.

Legal solution for problems: granting territorial autonomy for *Szeklerland*, thus transforming it into an independent development region with special legal status

The major obstacle to *Szeklerland's* organic development as well as the most important impediment hindering it to experience, enjoy and preserve its own regional and national identity is the historical desire to (over)centralise; a characteristic of the Romanian administration. The solution for the mentioned difficulties is the implementation of the European traditions of subsidiarity and self-government. In other words, one should adopt a special organisational and administrative structure taking into account the region's geographical, historical, economic, social and political characteristics as well as the distinctive cultural and national character of the majority population living in the *Szeklerland*. This means granting territorial autonomy to *Szeklerland*.

The community autonomy of minorities, in general, and the territorial self-government of a historical region constituting the homeland of an indigenous ethnic group living as a minority on the territory of a certain state, but as the regional majority in the respective area, in particular, are solutions that have been implemented as parts of various states' administrative systems in a Europe of states, regions and national communities leading to the normalization of majority-minority relations (see Resolution 1334 (2003) based upon the Gross Report compiled by the European Council).

The *Szeklerland* satisfies the criteria to be met by an autonomous administrative region both from an economic perspective and by virtue of its historical-geographical distinctiveness. These traits are complemented by a sense of community awareness, articulated both politically and regionally, which lead *Szeklers* to express their need for community autonomy on several occasions and in several forms.

A state's territorial and administrative organization is a matter of internal affairs. Nevertheless, the observance of individual and collective rights enjoyed by the citizens of the European Union, including the protection of their identity as communities, the right to self-government and internal self-determination, is an issue that concerns the EU from the perspectives of human rights, stability, and security policy.

The special legal status regarding administrative autonomy

Szeklerland's citizens claim special legal status – safeguarded by the Constitution and by a special law – for their region. They envisage this region as a territory where decisions concerning the future of the area itself and their everyday existence are passed on the local level by bodies that were freely and democratically elected by the region's inhabitants.

The main characteristics of this special legal status regarding the regional self-government claimed by the *Székelys* include the following:

- The *Szeklerland*, a region formed as the result of centuries long organic development, should become a single, unitary, and unified regional administrative entity – the autonomous administrative region *Szeklerland* – constituting the middle level of administration between the level of local and central state administration.
- The region should have its own decision-making and executive bodies set up on the basis of democratic elections organized by its citizens. These bodies would assume the role of administrative authorities through exerting their power on the basis of the voters' will. In addition, they would operate within the state's administrative system, and not function in parallel with the latter.
- Various competencies shall be transferred to these bodies that would exercise them as decision-making authorities in accordance to a law regulating the legal status of the region. Only on the basis of such competencies can one offer legitimate solutions to problems presented in previous parts of this memorandum, while taking into account local interests as well, especially in fields like education, culture, public information, the preservation of traditions and national monuments, social and employment issues, exploitation and processing of natural resources, environmental protection as well as public order.
- The free use of one's native language in private and public life is a collective right, which protects national identity and guarantees that it will be passed on to future generations. It is common European practice, stipulated even in the European Charter for Regional or Minority Languages, to grant the language of the community which forms the majority in a particular region (though the community itself lives as a minority in the respective state) the status of regional official language.
- The use of Hungarian national symbols as well as the free usage of the *Szeklers'* specific emblems is also an integral part of national and regional identity, as is the native language.
- The additional expenses resulting from multiculturalism and the special legal status presuppose that a larger share of the tax revenue generated within the region shall remain within the region. The broader economic and budgetary independence are crucial conditions for territorial autonomy.

The Szeklerland as independent development region

The development regions created in 1998, without taking into consideration the economic, geographical, environmental, cultural and historical features of Romania's traditional regions, secure neither economic and social progress, nor higher employment. Furthermore, they do not promote balanced and sustainable economic growth. Data on the utilization of the pre-accession funds (stemming from the PHARE, SAPARD, and ISPA programs) show that in these artificially created development regions the more developed and populated counties obtain larger subsidies, while the smaller and poorer counties continue to remain in an economically backward position.

The operation of regional institutions in charge of elaborating and implementing development policies is heavy-handed and bureaucratic. In fact, these institutions submissively execute orders coming from central state administration. Agency offices embrace neither the idea of partnership, nor the principle of subsidiarity. This is the reason why local governments representing the interests of the primary party (i.e., the local community) seeking development funds become more vulnerable and defenceless. In order to meet the needs of local communities and local governments to apply for and obtain funds it is imperative to rethink, in the near future, the competencies of development agencies on the basis of territorial-geographical considerations.

Furthermore, for the prosperity of *Szeklerland*, it is imperative to redraw and reorganise the development regions and to redesign and reorganise their institutions.

Presently, the administrative units (Mureş, Harghita and Covasna counties) forming the *Szeklerland* belong to the Central Development Region together with three other counties (Braşov, Sibiu and Alba). Thus, the capacity of local governments representing Hungarian settlements situated in this development region is severely limited in what regards the realisation of their interests. As shown by various decisions and executive measures, this state of affairs influences the Hungarian community in an adverse manner. It is telling that Alba county, possessing no information about and having no direct influence on the daily activities of the other five counties, hosts the regional governing body in charge of distributing the development funds stemming from the European Community and choosing the programs deemed worthy of funding.

The *Szeklerland* satisfies all European Union criteria to be met by statistical development regions. The thrift and efficiency requirements set forth by the EU regarding the usage of development funds, will inevitably modify the borders of development regions. In what concerns the establishment of an independent *Szekler* development region, elected officials from the *Szeklerland* demand nothing else than the acknowledgment and observance of the borders defining the organically developed historical regions in Romania and the appropriate reorganisation of institutions responsible for regional development.

About the Romanians' rights in Szeklerland

From a political point of view and in what regards inter-ethnic accommodation, the situation of the Romanians who live in the region as a minority, while the members of the same ethno-national group form the majority population of the state, is a delicate issue. This sets the standards for the democratic organisation of an administrative region with special legal

status. The matter can be settled in a more than satisfactory manner only by securing equal rights to Romanians living in *Szeklerland* and paying special attention to their situation.

Summary

During the last 20 years, the Hungarian community in *Szeklerland* has repeatedly expressed its resolute claim for obtaining territorial autonomy through the enactment of a law awarding special legal status to the region. In their endeavours, Hungarians have always used only democratic, peaceful, and lawful means, such as political statements, petitions, memoranda and bills.

We, Members of Parliament and local government officials – mayors, deputy mayors and local councilpersons – in the *Szeklerland*, elected in accordance to the popular will, assert once more that the sole legal guarantee for our community's survival and for the future of our region is *Szeklerland's* territorial autonomy.

We, in full awareness of our responsibility for the region's and the Hungarian community's past, present and future, resolutely claim self-government and take a firm stand in what regards achieving our goals by using all available legal means.

Members of Parliament and elected local government officials from *Szeklerland*