
I. Introduction

On 26 January 2006, the Parliamentary Assembly of the Council of Europe (PACE) adopted Recommendation 1735 (2006) on “The Concept of ‘Nation’” (hereinafter “Recommendation 1735”). This reopened the debate regarding the ‘best concept’ of a nation in Europe, starting from an analysis of the ‘classic’ concepts: the cultural and the civic. Formally, the adoption of this document was proposed by another PACE text: Resolution 1335 (2003) on “Preferential treatment of national minorities by the kin-state: the case of the Hungarian Law on Hungarians living in neighbouring countries (“Magyars”)” of 19 June 2001, adopted by PACE on 25 June 2003. In substance, it was one effect of the European dispute regarding the Law on Hungarians living in neighbouring countries, adopted in June 2001 by the Hungarian parliament, a piece of legislation which raised a number of legal and political concerns, in particular with regard to its potential discriminatory and extraterritorial consequences, but also to the risk of creating a ‘political bond’ between the kin-state and its kin-minorities living in the home-state.

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1 For the text of the Recommendation, see <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/EREC1735.htm>.
But before presenting the particular context of this debate, I will first point out a few synthetic elements regarding the two understandings of the concept of nation (also in ‘dispute’), as Recommendation 1735 deals specifically with them, and with the connection between them.

The ‘dispute’ between cultural or ethnic nation and civic nation is quite old and therefore it has a history of its own.

It is well-known that the concept of civic nation was a product of the late 18th century and of the French Revolution, on the basis of the “social contract” theory of Rousseau, Abbot Gregoire and Abbot Sieyes. According to Abbot Gregoire, the whole corpus of citizens forms a single and indivisible nation. In turn, Sieyes defined ‘nation’ as the people living under the same law and being represented by the same legislative assembly; in his view, the quintessence of the nation-state is the following: voluntary association (because it is a contractual one), fusion by integration within a homogenous nation, in the mathematical sense, of its individualities, and manifesting its will in a representative way. He considered the nation as a legal/moral person exercising sovereignty, which gathered into one entity all citizens of the state without any distinction on the basis of ethnicity. The concept would be later consecrated in Article 3 of the Declaration on Human and Citizens’ Rights of 26 August 1789.

According to this concept, the people-nation of the French Revolution is characterized not by language, territory or a common ethnicity, but by the fact that it represents the general interest and common well-being against all forms of privileges and particular interests; it is a “convened nation”, founded on the “political choice of its potential citizens” as well as on the assimilation of nationality with citizenship.

The concept was crystallized by the famous Ernest Renan in his well-known conference “What is a nation?” held on 11 March 1882:

A nation is a soul, a spiritual principle. Two things which in reality are only one constitute this soul, this spiritual principle. The first one is the possession of a rich heritage of memories, the other one is the commitment, the will to live together. […] The existence of a nation is a […] plebiscite of every day […] The man is not the slave of his race, or

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4 Adrian Năstase et al., Protecting Minorities in the Future Europe—Between Political Interest and International Law (RAMO, Bucharest, 2002), 19.
7 “Le principe de toute souveraineté réside essentiellement dans la Nation.”
8 Brigitte Krulic, La Nation. Une idée moderne (Ellipses, Paris, 1999), 72.
10 Eric Hobsbawn, Nations et nationalismes depuis 1780 (Gallimard, Paris, 1992), 114. That is why, in 1792, the French Legislative Assembly granted the title of “honorary citizens” to Friedrich Schiller, Thomas Paine, George Washington, etc., by virtue of their free acceptance of the universal values of the Revolution. In 1795, Tallien stated that “the only foreigners in France are the bad citizens”. See Krulic, op.cit. note 8, 73.