

The Serbian-Hungarian dispute over the restitution law

Andrzej Sadecki, Marta Szpala

In September the Serbian parliament adopted the restitution law which foresees the restitution of the property nationalised between 1945 and 1968 or the payment of damages. Its adoption is one of the conditions which Serbia has to meet in order to gain EU candidate country status. However, the adopted law rules out the possibility for people who served in the armed forces occupying Serbia during World War II and their descendants to reclaim property. This regulation may make it impossible to return property to representatives of the Hungarian minority from the region of Vojvodina, incorporated into Hungary during the war. These exclusions from the restitution of property were strongly objected to by the Hungarian government, which accused Serbia of applying the principle of collective punishment and breaking EU law. Hungary also threatened to withdraw its supports for Serbia's ambitions to gain EU candidate country status in December this year unless the law is amended. The government's firm position was also backed by all opposition parties and on 17 October the Hungarian government unanimously voted for a resolution condemning the new Serbian law.

Commentary

- Budapest's firm stance is in line with the policy of the Viktor Orban government which has been pursuing an active policy of supporting the Hungarian minority in neighbouring countries since it took power in April 2010 but it calls into question Hungary's position as Serbia's ally on its way to the EU. Blocking Serbia's EU candidate status would be contradictory to Budapest's traditional foreign policy priority which is supporting the integration of the countries of the Western Balkans with the EU. Serbia's EU membership also lies in the interest of Hungarians from Vojvodina. The Hungarian government is interested in maintaining good relations with Belgrade and the Serbian system of the protection of minority rights has till now served as an argument in disputes with Slovakia and Romania.
- It cannot be expected that the Serbian restitution law will be changed as their provisions are seen to reflect historical justice and are supported by the majority of society and parties in parliament. Nevertheless, the Serbian government seems willing to revise the rehabilitation law and add suitable executive provisions which will make it possible for the Hungarian minority to participate in restitution.

- In the dispute with Serbia, Hungary cannot rely on support from the European Commission which recognised that the Serbian law was not contradictory to the EU law. Nor can Hungary expect to be backed by Germany (although the law is also unfavourable for the German minority in Serbia) which gives priority to the normalisation of relations between Kosovo and Serbia. Despite this the Hungarian government will delay the decision about granting Serbia EU candidate status, treating the threat of a veto as an instrument of pressure which will allow representatives of minorities to negotiate the most advantageous solutions.
- The result of the talks between Serbian President Boris Tadić and the leader of the Alliance of Vojvodina Hungarians (SVM) Istvan Pasztor will be key to solving the dispute. The Hungarians from Vojvodina are demanding amendments to the rehabilitation law which will enable them to redefine the notion of “serving in occupation forces”, whereas a compromise could consist of a special treatment given to the people called up to join these forces. Such a move would allow the property of former Hungarian soldiers to be included in restitution. If SVM reaches an agreement with the Serbian government, the Hungarian government will most likely not oppose to Serbia's EU candidate status.