

*Pavel Kladiwa*

## PARENTS, NATIONS, AND THEIR CHILDREN

*Volksschulen* in Moravia during the Ethnicization of Politics and Law<sup>1</sup>

### *Introduction*

The second half of the nineteenth century and the beginning of the twentieth were not only the age of capital and empires,<sup>2</sup> but also the age of nations, a period in which the national idea and national languages became increasingly significant. With democratization, the state's ability to communicate intelligibly with the population and the availability of education became ever more important. The Cisleithanian state authorities had to adapt to the considerable rise in the importance of the national idea, which manifested itself in both legislation and the executive. Gerald Stourzh, who has been examining Cisleithanian constitutional and legal development for a long time, writes about the ethnicization of politics and law.<sup>3</sup>

In the last decades of its existence, multi-ethnic Cisleithania embarked on the difficult path of connecting the concept of nationality to the principle of citizenship. Article 19 of the State Fundamental Act Concerning the General Rights of Cisleithanian Citizens of 21 December 1867 declared that in provinces inhabited by several nations schools should be established in a way that enabled each nation to be educated in its own language. It also recognized the equality of all languages whose use was customary in the province in schools, in dealings with public authorities, and in public life.<sup>4</sup>

In May 1869, the so-called Hasner's School Act, which made schools public institutions, was adopted in Cisleithania. Section 59 mandated that a public *Volksschule* (a school for primary education) should be established wherever there were more than 40 schoolchildren living in one or more settlements located within a one-hour radius who had to attend a school more than four kilometres from their residence. The number 40 was to be based on a five-year average of the school-age population

---

<sup>1</sup> This study was produced as part of Czech Science Foundation (GAČR) grant no. 20-00420S Moravský pakt jako laboratoř etnizace politiky a práva: Národnostní rozdělení moravských měst v letech 1905-1914 [The Moravian Compromise as a Laboratory for the Nationalization of Politics and Law. The National Partitioning of Moravia's Towns, 1905-1914].

<sup>2</sup> *Hobsbawm*, Eric J.: *The Age of Capital 1848-1875*. London 1995; *Hobsbawm*: *The Age of Empire*. London 1989.

<sup>3</sup> *Stourzh*, Gerald: *The Ethnicizing of Politics and "National Indifference" in Late Imperial Austria*. In: *Stourzh*: *Der Umfang der österreichischen Geschichte. Ausgewählte Studien 1990-2010*. Wien, Köln, Graz 2011, 295.

<sup>4</sup> For the full text of the act in German, see <https://alex.onb.ac.at/cgi-content/alex?aid=rgb&datum=1867&page=424&size=45> (last accessed 10 July 2023).

in a given area.<sup>5</sup> At least one *Bürgerschule*<sup>6</sup> was supposed to be established in each political district. Every public *Volksschule* was assigned a school district. Precisely defining school districts guaranteed the ongoing identification of pupils on a regular basis and thus established the obligation to set up the necessary schools.

On the basis of this act, a network of *Volks-* and *Bürgerschulen* was created and this network gradually grew denser. In accordance with the act, the provincial school board had to decide on the language of instruction in each of these schools, taking into account the intention of the school's founding entity. The founding entity was defined as the municipality the school was in because the Imperial Municipal Act of 5 March 1862, which was incorporated into all provincial acts concerning municipalities, entrusted the establishment, running, and maintenance of *Volksschulen* to the municipal authorities.

For ethnically mixed milieus like the Bohemian lands, such a provision created a strong potential for conflict. This was especially true of Moravia, where only 36 of the 307 towns were purely German-speaking and 50 were purely Czech-speaking, but 221 had a mixed population.<sup>7</sup> The usual pattern in Moravia's larger economic centres was the predominance of German capital and the presence of a German-speaking bourgeoisie and intelligentsia. This created the elite of the local society and, as a result of the election system, which took into account both wealth and education, the German-speaking elite also dominated the town councils, that is, the municipal self-governments. Several Moravian towns had a "German" town council despite a population with a Czech-speaking majority. The question of minorities was therefore a much more important political issue in Moravia than in Bohemia.<sup>8</sup>

Most studies dealing with the national theme in education produced by Czech scholars are essentially an indictment of Germanizing activities in municipal education, especially in Moravia.<sup>9</sup> What they lack is a supra-regional and nationally un-

<sup>5</sup> The Imperial Act spoke of a one-hour radius on foot. Gesetz vom 14. Mai 1869, durch welches die Grundsätze des Unterrichtswesens bezüglich der Volksschulen festgestellt werden. Reichsgesetzblatt für das Kaiserthum Österreich, 1869, St. 62, 277-288.

<sup>6</sup> Primary education was compulsory. Children could fulfil this requirement in two ways: either by completing an eight-year *Volksschule* or a five-year *Volksschule* followed by study at a *Bürgerschule* or secondary school.

<sup>7</sup> Malý, Jiří: Nacionalizace obecní samosprávy a limity demokratizace komunální politiky před rokem 1914 na příkladu Moravy [The Nationalization of the Municipal Government and the Limits of the Democratization of Municipal Politics before 1914 with Moravia as a Case Study]. In: Pešek, Jiří/Ledvinka, Václav (eds.): Mezi liberalismem a totalitou. Komunální politika ve středoevropských zemích 1848-1948 [Between Liberalism and Totalitarianism. Municipal Politics in Central European Countries, 1848-1948]. Praha 1997 (Documenta Pragensia 14) 77-78.

<sup>8</sup> Bobáček, Antonín: Vývoj Čechův a Němcův na Moravě [The Development of the Czechs and Germans in Moravia]. In: Časopis Matice moravské 32 (1908) 270-306, 366-389.

<sup>9</sup> E.g., Jiřík, Karel: Vítkovice – nejvíce germanizovaná obec v Předlitavsku [Vítkovice – The Most Germanized Municipality in Cisleithania]. In: Ostrava. Příspěvky k dějinám a současnosti Ostravy a Ostravska 21 (2003) 174-197; Pavlíček, Jaromír: České školství v národnostních vztazích na Ostravsku v letech 1900-1914 [Czech Education in National Relationships in the Ostrava Region in 1900-1914]. In: Ostrava. Sborník příspěvků k dějinám a výstavbě města 9 (1977) 98-127; Havránek, Jan: Moravské školství v druhé polovině

biased view, a willingness to take into account the all-Austrian point of view, and acceptance of the fact that in the Moravian milieu at the turn of the twentieth century, there were also people, especially those living in larger cities, who could not be unequivocally classified as either Czech or German.

In the 1980s and 1990s, two basic Austrian research studies examined how the principle of national and language equality was applied in the Austrian (Cisleithanian) constitution, state administration, and education.<sup>10</sup> As the author of one of them, Hannelore Burger, stated, state central authorities knew about the national struggle at the level of general education, but did not intervene when employers or landlords applied the most frequently abused means of coercing parents into sending their children to German schools – threatening that they would lose their job or their lease would be terminated.<sup>11</sup>

More recent works have added more detailed insights into several different areas: the municipal milieu;<sup>12</sup> the conflict between individual rights and collective rights;<sup>13</sup> and the work of the national activists trying to galvanise the sector of the population that was still nationally indifferent.<sup>14</sup> In analysing the Czech-German national struggle over the schooling and upbringing of children, Tara Zahra focuses on the “nationalist campaign to eradicate national indifference and bilingualism among parents and children in the Bohemian lands”.<sup>15</sup> To develop her concept of “national indifference”, Zahra examines the concerns of individuals with an ambiguous (and/or ambivalent) national identity, who had become one of the nationalists’ targets. To do this, she chooses examples from Prague/Praha/Prag (p. 20), Brno/Brünn (p. 30), and the Jihlava/Iglau region (p. 44).

Zahra stresses Czech nationalists’ efforts to “convince parents of the moral and psychological dangers of bilingualism”.<sup>16</sup> Comparing them with their German coun-

19. století [Moravian Education in the Second Half of the 19<sup>th</sup> Century]. In: *Časopis Matice moravské* 91 (1972) 117-125.

<sup>10</sup> *Burger*, Hannelore: *Sprachenrecht und Sprachengerechtigkeit im österreichischen Unterrichtswesen 1867-1918*. Wien 1995; *Stourzh*, Gerald: *Die Gleichberechtigung der Nationalitäten in der Verfassung und Verwaltung Österreichs 1848-1918*. Wien 1985.

<sup>11</sup> *Burger*: *Sprachenrecht und Sprachengerechtigkeit* 78, 92, 95 (cf. fn. 10).

<sup>12</sup> *King*, Jeremy: *Budweisers into Czechs and Germans. A Local History of Bohemian Politics, 1848-1948*. Princeton/NJ 2002; *Cohen*, Gary B.: *The Politics of Ethnic Survival. Germans in Prague, 1861-1914*. Second Edition, Revised. West Lafayette/Ind. 2006.

<sup>13</sup> *King*, Jeremy: *Group Rights in Liberal Austria: The Dilemma of Equality in Proportional Representation*. In: *Fasora*, Lukáš/*Hanuš*, Jiří/*Malíř*, Jiří (eds.): *Moravské vyrovnání z roku 1905. Možnosti a limity národnostního smíru ve střední Evropě. Sborník příspěvků ze stejnojmenné mezinárodní konference konané ve dnech 10.-11. listopadu 2005 v Brně* [The Moravian Compromise of 1905. The Possibilities and Limits of National Reconciliation in Central Europe. Conference proceedings from an international conference of the same name held in Brno on 10-11 November 2005]. Brno 2006, 27-42.

<sup>14</sup> *Zahra*, Tara: *Kidnapped Souls. National Indifference and the Battle for Children in the Bohemian Lands, 1900-1948*. Ithaca/NY, London 2008; *Judson*, Pieter M.: *Guardians of the Nation. Activists on the Language Frontiers of Imperial Austria*. Cambridge/Mass. 2006.

<sup>15</sup> *Zahra*: *Kidnapped Souls*. See the first chapter, “Czech Schools for Czech Children!”, 13 (cf. fn. 14).

<sup>16</sup> *Ibid.* 13-14.

terparts, she argues that, unlike Czech nationalists, “German nationalists typically promoted a more assimilationist understanding of national belonging”.<sup>17</sup> However, she does not consider the demographic trends that motivated this way of looking at national belonging. And most importantly, in order to concentrate exclusively on the nationalists’ struggle against “national indifference”, Zahra ignores the fact that at the turn of the twentieth century, year after year, Czech-speaking pupils in Moravia found themselves in German-language *Volksschulen*, despite their difficulties with German. In the second half of the nineteenth century, about an eighth of the children from Czech-speaking families in Moravia went to schools with German as the language of instruction.<sup>18</sup> Children with poor knowledge of German apparently did not predominate among children from a Czech ethnic milieu attending German schools in a traditionally bilingual milieu (Brno, Olomouc/Olmütz, or Jihlava). However, they certainly formed a significant majority in Moravská Ostrava/Mährisch Ostrau, Vítkovice/Witkowitz, Přívoz/Oderfurt, Zábřeh/Hohenstadt, and in Uherské Hradiště/Ungarisch Hradisch. The most intense national pressure took place in such localities. As Burger has shown, this pressure could take very intensive forms, for example when company employees were threatened with being fired if they sent their children to a Czech school.<sup>19</sup>

Zahra does not reflect at all on the stage that preceded the rivalry between Czech and German national activists and school workers over whether a child in this or that city would attend a Czech or a German *Volksschule*. At first, Czech national activists had to fight for a Czech school to be opened in a number of mixed Moravian towns with a German-controlled town hall. The town halls fiercely opposed this and did not want to give the children, or rather their parents, the opportunity to choose between a German and a Czech school. It usually took years before government bodies forced them to do so. In other words, the story of Moravian primary schools in Cisleithania is far from being simply a story of ethnically ambiguous parents, their children, and the voluntary nature of decision-making that nationalists, especially the Czech ones, wanted so intensely to prevent. It is also a story – and, in terms of numerical ratios, one that happened quite frequently – about attempts to block parents from having any choice at all. And it is a tale of what happened when the school of the second language of instruction (in most cases, Czech) opened: coercive measures often forced parents to enrol their children in the German school.

The first goal of this study is therefore to analyse national conflict in Moravian schooling in its necessary land-wide demographic, social, and political contexts and also in the context of the nationalization of municipal self-governments, since the town halls were the founding entities and operators of public primary schools. This approach can provide a balanced interpretation and a balanced assessment.

The study’s second goal is to give a detailed view of practice. Hannelore Burger’s work on language law in Cisleithanian schooling stays at the level of acts, ministerial and vicegerent regulations, and court jurisprudence. It is important, however, to

<sup>17</sup> *Ibid.* 17.

<sup>18</sup> *Havránek*: Moravské školství (cf. fn. 9).

<sup>19</sup> *Burger*: Sprachenrecht und Sprachengerechtigkeit 94-95 (cf. fn. 10).

go further by asking several key questions: How were the acts and regulations interpreted and applied in everyday school life? In practical terms, what happened when it came to enforcing the principles involving the nationality and language rights to which Cisleithania subscribed? Were there significant shifts in Moravian school practice due to new acts, especially the so-called Lex Perek (Perek's Act), and the jurisprudence that appeared over time? I will try to analyse the impact of the acts and regulations applying the national principle in Moravian education to the pupil base of individual schools. How did the municipal self-governments in ethnically mixed Moravian towns react to the minority nationality's educational demands? How successful were the national activists, especially the Czech ones, in their efforts to use the new legislation and move children from German schools to Czech schools? And finally, what happened when a complaint was recognized as legitimate? Did this successful outcome mean that the child was transferred to the school using the teaching language about which the complaint was made?

The study is based on a detailed analysis of sources of local (municipal governments, local school boards), district (district school boards, district governor's offices), provincial (the Moravian Provincial School Board or *Landesschulrat* in German, the Moravian *Statthaltere*), and Cisleithanian (the Ministry of Religious Affairs and Education, the Administrative Court of Justice) provenance. Connecting all these levels gives me a more comprehensive insight into the stances and motives of the individual participants. As far as I know, no one has yet linked archival materials from every instance of school administration.

The study deals with children who were regarded as members of the Czech or German nationality in the period under study, thus almost all the children who lived in Cisleithanian Moravia. The children of the few thousand Polish-speaking inhabitants living in the Moravian part of the Ostrava region constituted an exception. However, the children from the Jewish minority in Moravia, which numbered 44,255 people in the 1900 census, are included among the Czech, German, and Polish totals, because Cisleithanian law did not recognize a Jewish nationality, only the Jewish religion.

*The ethnic situation in Moravia and school conflicts in larger Moravian towns  
before 1906*

Until 1946 and the post-war expulsion of the Germans, two nationalities, the Czechs and the Germans, lived in Moravia. This was also the case in Bohemia. In comparison with Bohemia, in Moravia the inhabitants using the Czech language outnumbered those using German to a greater extent (in Moravia approximately 72:28; in Bohemia 63:37), but the German-speaking elites had dominated there longer and more strongly than in Bohemia, in both the economy and politics.

In the 1880s, however, even in Moravia it was clear that the Czech-speaking population had become stronger economically, culturally, and politically. Thus, the Germans only maintained their small majority in the Diet as a result of their prevalence in the large-landowner curia, and it was only a matter of time before the Germans would turn into a minority. That is why the German political representa-

tion in Moravia was willing to open negotiations with the Czech representatives. Negotiations about a Czech-German compromise in Moravia were lengthy (1898-1905), with several deadlocks. It was not until the fall of 1905 that the German and Czech negotiators were motivated to conclude the agreement quickly because they wanted to prevent the introduction of universal and equal suffrage into the Provincial Diet. The Moravian Diet approved the agreement and adopted acts that brought the application of the national principle into the provincial parliament and government (the Provincial Diet, the Provincial Committee), into elections to the Diet and the Austrian parliament, and into *Volksschulen*.

The German political representatives from Moravia renounced their majority in exchange for a specified number of seats in the Moravian Diet and the Austrian parliament that guaranteed the preservation of their political influence. An arrangement about the national separation of *Volksschulen* (the Lex Perek) was also part of the Moravian Compromise. The person who made the proposal, Václav Perek, a lawyer residing in Prostějov/Proßnitz and a People's Party politician, wanted to end the way the development of Czech education was being blocked in mixed municipalities controlled politically by Germans.

It is necessary to point out one important thing about the Lex Perek: unlike the other basic provisions of the Moravian Compromise, it was not possible to reach a consensus. The German negotiators had absolutely no desire to accept the mandatory attachment of children to schools where instruction took place in their mother tongue, which the Czech side promoted, because they were fully aware that denationalizing part of the Czech population surplus helped slow the pace at which Czech demographic superiority was growing in Moravia. However, the Czech negotiators refused any solution for the overall Moravian agreement that did not include school matters. Thus, the Lex Perek was also part of the reform package, but in the wording adopted it was as leaky as a sieve. The Czech party tried to save face politically, but it was surely aware that the wording of the text of the act prevented the enforcement of the principle that "a Czech child belongs in a Czech school".

Due to the combination of the electoral system and the specific settlement situation – more than two-thirds of the towns were linguistically mixed<sup>20</sup> – the German-speaking, more affluent and educated strata dominated the major Moravian towns. In 1900, of the 15 towns in Moravia with more than 10,000 inhabitants, ten were German, according to the statistics for the language of daily use (*Umgangssprache*). Moreover, a number of municipalities and towns in Moravia had a German self-government although Czech was the majority language of daily use.<sup>21</sup>

<sup>20</sup> Rumpler, Helmut / Urbanitsch, Peter (eds.): Die Habsburgermonarchie 1848-1918. Vol. 7, 2: Verfassung und Parlamentarismus. Die regionalen Repräsentativkörperschaften. Wien 2000, 2267-2271.

<sup>21</sup> Boháč: Vývoj Čechův a Němcův na Moravě 270-306, 366-389 (cf. fn. 8); Malíř, Jiří: Obecní samospráva a národnostní problematika na Moravě před rokem 1914 (Deset poznámek k „boji o radnice“ moravských měst). [Municipal Self-Government and National Issues in Moravia before 1914 (Ten notes on the "struggle for town halls" of Moravian cities)] In: Národnostní problémy v historii měst. Sborník příspěvků z konference uspořádané u příležitosti stého výročí české správy města Prostějova [National Problems in the History

In the last third of the nineteenth century, the municipal governments became nationalized to a significant degree. If the municipality was ethnically mixed and the municipal government sided with one ethnic group, a problematic situation arose. Schooling became a battleground, with hard-fought struggles to establish schools on a national principle because land-wide political issues were now also part of municipal politics. The mayors of larger towns were often provincial or even imperial deputies. One of the key issues in the discourse about national competition was the struggle for national property, *nationaler Besitzstand*. Politicians and national activists observed the development of the ratio between Czech and German as the language of daily use in the population at the provincial, district, and local levels. This question was added to the Cisleithanian censuses in 1880. A comparison of the statistical data from 1880, 1890, 1900, and 1910 shows us an indisputable demographic trend: the German-speaking population was growing at a slower rate than the Czech-speaking population.

The awareness of demographic trends, which were known thanks to censuses and the detailed works that resulted from them, influenced both land-wide and local German and Czech politics of the period. At the local level, mainly in the milieu of larger towns, this awareness instigated German assimilation activities. Understandably, these did not go unanswered on the Czechs' part. At the beginning of the twentieth century, the only Moravian district with a large increase in the number of Germans (according to the statistics for the language of daily use) was the Moravská Ostrava district.<sup>22</sup> In other words, in Moravská Ostrava, Vítkovice, Přívoz, or other municipalities in the region, we see activities that municipal governments and large industrial enterprises carried out to promote German-focused national assimilation.

Schooling was a key focus of these activities. In establishing *Volksschulen*, the town councils used the authority Hasner's School Act gave them. They strongly favoured German education if they did not ignore Czech education altogether. The most pressing situation was in Vítkovice, where one of the monarchy's largest industrial enterprises was based, the Vítkovice Ironworks, which was controlled by German owners (*Witkowitzter Bergbau- und Eisenhütten- Gewerkschaft*). A Czech public *Volksschule* did not open there until December 1897, despite the fact that in 1900, even according to the official statistics of the language of daily use, the Czech-speaking population comprised 40 percent of the town's population of 19,213. The real percentage was tens of percentage points higher.<sup>23</sup>

The situation of Czech education was also problematic in other populous municipalities in Moravia. In Brno, where Czech-speakers comprised 31 percent of the population (i.e., over 32,000 Czechs in 1890), a public *Volksschule* with Czech as the

---

of Towns. Proceedings of the conference organized on the occasion of the 100<sup>th</sup> anniversary of the Czech administration of Prostějov]. Ed. by Muzeum Prostějovska. Prostějov 1993, 75-87, appendix no. 1.

<sup>22</sup> See Herz, Hugo: Der nationale Besitzstand in Mähren und Schlesien nach den Ergebnissen der Volkszählung vom Jahre 1910. In: Zeitschrift des Deutschen Vereines für die Geschichte Mährens und Schlesiens 18 (1914) 1-51, 187-226.

<sup>23</sup> Gemeindelexikon von Mähren (Gemeindelexikon der im Reichsrath vertretenen Königreiche und Länder. X. Mähren). Wien 1906, 124.

language of instruction was not established until the 1881-1882 school year. The dispute over establishing a second Czech public school in the town was decided by the *Verwaltungsgerichtshof* (Administrative Court of Justice or ACJ) on 14 February 1884, in favour of the Czech complainants.<sup>24</sup> Olomouc had the same proportion of Czech-speakers but the first Czech public (municipal) *Volksschule* did not open there until the 1884-1885 school year, again as a result of the ACJ's ruling.

As we already know, in the late nineteenth century at least one-eighth of the Czech children in Moravia, mostly from towns, were educated in German. However, the Czech national activists were eventually able to enforce the establishment of at least one Czech school in each of the contested mixed towns where German interests controlled the town councils, as the ACJ responded to complaints about the violation of article 19 of the State Fundamental Act on the General Rights of Citizens. With its ground-breaking ruling of December 1884, it linked the above-mentioned passages of Hasner's School Act and article 19 of the State Fundamental Act. If only one *Volksschule* existed in an ethnically mixed municipality, despite the presence of enough children of other nationality, and the children's parents declared their wish for education in the language of this nationality, a new public school with the corresponding language of instruction was supposed to be established.<sup>25</sup>

This decision was unquestionably nationally sensitive, but it also brought with it a series of problems arising from a question that, at first sight, might seem banal: Who is who? Who is Czech and who is German? While national ideologies had spread considerably by the end of the nineteenth century, their active consumers were only part of the population, certainly not the entire population. In parallel with the national idea, local, regional, land, and religious identities still coexisted. A minority of the population was proficient in both land languages, Czech and German. More importantly, the court ordered that the national principle be applied, even though the Austrian legislation did not recognize the concept of nationality at all nor was nationality determined in the censuses (where people were asked about the language of daily use, and only one language could be chosen).

Disputes arose immediately, and it was unclear where to find guidance when deciding them. How was the nationality of children (or, more precisely, their parents) to be determined in disputes where the parents of more than 40 children asked the state authorities to enforce the establishment of a school for their nationality with the municipal self-government, while the municipal self-government, by rejecting the accuracy of national belonging, denied that there was a legal obligation to open the school? In accordance with the then-prevailing liberal ideology, the ACJ first resolved this dilemma in 1896 with the principle of self-declaration, that is, a

<sup>24</sup> "Právo zvítězilo" [Right has won]. In: Moravská orlice, 16 February 1884, 1.

<sup>25</sup> Verwaltungsgerichtshof (Administrative Court of Justice), ruling no. 2314 of 4 December 1884. This was a complaint filed by the town of Nýřany/Nürschan in Bohemia about the decision of the Ministry of Religious Affairs and Education of 17 May 1884 concerning the establishment of a school with Czech as the language of instruction. The investigation showed the presence of 80 schoolchildren of Czech nationality in the district on a five-year average.

subjective designation. No objective factors such as origin or mother tongue (preferably the father's) were to be taken into account. In this case, the only determinant was the recorded declaration of the child's parent (preferably the father) or guardian. Should such a dispute arise, a person was considered a member of the nationality which they themselves claimed.

That solution had its advantages and disadvantages. The upside was its simplicity and clarity: self-declaration was quick and unequivocal, whereas, in a nationally mixed milieu an inquiry into ethnic origin could lead to ambiguous conclusions. The problem was that an individual could be influenced by various factors: their self-declaration might have been "false" as the result of pressure from an employer or landlord and the threat of being dismissed from work or an actual notice of dismissal was a strong "argument". This solution continued to be applied as late as 1911. As I will explain below, the developments of 1906, when the Lex Perek entered into force, were not a significant milestone in this respect.

The method for determining an applicant's nationality that was adopted for establishing a school with either Czech or German as the language of instruction had some consequences, especially in larger Moravian municipalities controlled by German town councils: it led to a "decrease in demand" and therefore the legal requirements were satisfied later. These involved not only opening the first school of a different nationality in the municipality, but also setting up parallel classes and other schools. The regulations took all of these measures into account. However, even if the legal prerequisites were met, the municipal self-governments used the possibility of an appeal, thus delaying the expansion of Czech education as much as possible. For example, Moravská Ostrava appealed against the Provincial School Board's decision of 1 November 1910, which ordered that a Czech *Volksschule* with five classes for boys and one for girls be established in the city's fifth district and mandated that a Czech school branch (i.e., the subsidiary of an existing school) with three classes be set up in the third district. It also appealed against the Provincial School Board's decision of 14 November 1910 about stabilizing a parallel class of the second form of the Czech girls' *Bürgerschule*. The dispute over the stabilization of a parallel department of the Czech girls' *Bürgerschule* drove the city to take its legal actions as far as the ACJ.<sup>26</sup> Olomouc also defended the preferential position of German schools in the town (there was only one Czech public *Volksschule* in the city till 1918),<sup>27</sup> and Brno in particular put up a fierce fight, regularly appealing to the highest instance.<sup>28</sup>

The disputes were not only over classes, but also about the budget of the Czech local or (in statutory towns) district school boards. Hundreds of crowns were

<sup>26</sup> On 20 January 1912, the Administrative Court of Justice annulled the contested decision due to errors in the proceedings. In its reasoning it stated that the Ministry of Religious Affairs and Education had not commented on the objection of Moravská Ostrava to the Provincial School Board's decision: the municipality denied that it had a general obligation to maintain *Volks-* and *Bürgerschulen*. The ministry had only confirmed the decision of the lower instance. Austrian State Archive (OeStA), Allgemeines Verwaltungsarchiv (AVA), Unterricht Allgemein 1848-1940, sign. 18, box 5259.

<sup>27</sup> OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18, box 5262.

<sup>28</sup> OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18, box 5246-49.

enough – evidently, finances were not the main issue. One example is representative: the Jihlava municipal self-government contested two items amounting to 1,350 crowns in the Czech district school board’s budget for the 1911-1912 school year, totalling 12,478 crowns. The dispute concerned the item of drawing up plans for expanding the school for 700 crowns and the purchase of a typewriter for 650 crowns. The provincial school board granted the complaint of the municipality of Jihlava only in part. That is, it excluded the amount for the typewriter from the budget but left the 700 crowns for the school building plans, since, as it stated, the Czech schools needed a *Gymnasium* and, if the municipality was postponing its construction, the district schoolboard itself was legally obliged to take care of building the *Gymnasium*.<sup>29</sup>

*The period after the Lex Perek entered into force (1906-1910)*

Whereas before the Moravian Compromise the dispute in the education sector was mainly about setting up or blocking the establishment of schools for one nationality or another, after the Compromise it was about allocating children to the “right” school.<sup>30</sup> The Czech national activists wanted to stop children whom they considered Czech from being admitted to German schools. At first, however, they had no choice but to try and win over the parents – it was up to them to decide. Agitation took place mainly in the form of newspaper articles in August and early September, that is, a few days before children were enrolled in schools. In these articles, the authors stressed the benefits of education in a child’s mother tongue.

If Czech parents had decided (whether voluntarily or under duress) to enrol their child in a German school by 1906 (or 1910), their decision could not be reversed by any other authority. Prior to the adoption of the Lex Perek, Czech objections could only be based on the illegality of transfers to German schools during the school year, though the act also allowed exceptions; these were not linked to any requirement to meet exhaustively listed conditions.

The fourth act adopted on 22 November 1905 within the so-called Moravian Compromise was the Lex Perek. It set in motion a general adjustment of the educational situation in Moravia. This included the division of the school boards at all levels, local, district, and provincial, into Czech and German boards. The representatives of the municipality in both local school boards had to be of the corresponding nationality. A key feature of the Lex Perek was the principle that a child would generally attend a school in whose language of instruction he or she was proficient. Unlike the final text, Perek’s original proposal explicitly stated that this principle also applied to private schools.<sup>31</sup> The German negotiators had a major problem with

<sup>29</sup> OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18, box 5254, no. 240, the Provincial School Board to the Ministry of Religious Affairs and Education, December 19, 1912; State District Archives Jihlava, the District School Board for Czech schools in Jihlava-město, 1907-1921, inv. no. 27.

<sup>30</sup> *Bürger: Sprachenrecht und Sprachengerechtigkeit* 199 (cf. fn. 10).

<sup>31</sup> OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18 A, box 5234; A parliamentary proposal put forward by the deputies Dr. Perek, Dr. Hruban, and their colleagues at the first meet-

Perek's principle in the marathon of reconciling negotiations, which extended over many years. They rejected it on the grounds that it limited parents' right to a free education for their children. It was finally included in the act on establishing schools, because the Czechs made its adoption a condition of their consent to national reconciliation in Moravia.<sup>32</sup> However, it was included in a substantially altered form, which made it virtually impossible to implement.

What was the problem? Perek's Act, which entered into force on 1 July 1906, stated in the key second paragraph of section 20 that "In die Volksschule dürfen in der Regel nur Kinder aufgenommen werden, welche der Unterrichtssprache mächtig sind." (As a rule, only children proficient in the language of instruction can be admitted to a *Volksschule*). The phrase "as a rule" (*in der Regel*) signalled that exceptions would be allowed, but these were not exhaustively defined. The word "proficient" (*mächtig*) was ambiguous, with no breakdown of what it meant more specifically. Thus, the main goal of Perek's efforts to put an end to the denationalization of children could not be fulfilled.

Perek's Act presumed that a more detailed implementing regulation would follow. This came out in 1907.<sup>33</sup> Before the adoption of this so-called Marchet's Regulation, in 1906 and 1907 meetings were held at the Moravian *Statthaltere*i and the Presidium of the Ministerial Council.<sup>34</sup> There, members of the Czech and German delegations commented on the original and then on the modified proposal. The Czech representatives raised three basic objections: First, they argued against exceptions to the principle that a child should be enrolled in a school whose language of instruction he or she was proficient in (except in the rare case that the child was taught in the mother tongue of the parents which s/he did not know). The thorn in their side was mainly the exception based on the parents' mere wish that their children learn a second language. They were also opposed to exceptions being decided by the administration of the school to which the child came for enrolment. Second, they did not agree with

---

ing of the 10<sup>th</sup> election period of the Moravian Land Diet on 6 October 1903. See the Parliamentary Act on the Session of the Moravian Land Diet by the Supreme Patent on 14 December 1902 [Sněmovní list o sezeních moravského sněmu zemského svolaného Nejvyšším patentem ze dne 14.12.1902], 334.

<sup>32</sup> *Burger*: Sprachenrecht und Sprachengerechtigkeit 105-106 (cf. fn. 10). An entire chapter of this book focuses in detail on the effects of the Moravian Compromise on education (pp. 189-200), as does one chapter of the publication by *Stourzh*: Die Gleichberechtigung 213-228 (cf. fn. 10). For an overall evaluation of the Moravian Compromise, see e.g., *Glassl*, Horst: Der Mährische Ausgleich. Munich 1967; *Malý*, Jiří: Der Mährische Ausgleich – ein Vorbild für die Lösung der Nationalitätenfragen? In: *Winkelbauer*, Thomas (ed.): Kontakte und Konflikte. Böhmen, Mähren und Österreich. Aspekte eines Jahrtausends gemeinsamer Geschichte. Waidhofen an der Thaya 1993, 337-345.

<sup>33</sup> *Kladiwa*, Pavel: Revize tzv. Marchetova prováděcího nařízení [The Revision of the So-called Marchet's Implementing Regulation]. In: *Časopis Matice moravské* 140 (2021) 263-281. On this topic, see also *Puš*, Ivan: Lex Perek a Marchetova prováděcí nařízení. Jejich vznik, aplikace a dobová recepce [The Lex Perek and Marchet's Implementing Regulation. Their Creation, Application and Reception at the Time]. In: *Časopis Matice moravské* 136 (2017) 81-97.

<sup>34</sup> Státní okresní archiv [State District Archives, SOkA] Prostějov, Paměti dr. Příkryla [Dr. Příkryl's Memoirs], 1893-1909, box 20, year 1906.

complaints about children being decided by the district school board under which the relevant school belonged, for example, in the case of a German school, the German district school board. It was clear to them that the German school authorities would not protect Czech children in the sense that the Lex Perek intended. And third, they objected to retaining the principle that the headmaster of the school to which the child applied was not only responsible for determining the nature of the child's language skills but was also entitled to decide whether the child should be admitted or not.<sup>35</sup>

As could be expected, the German representatives took quite different positions. In particular, they wanted to include the parents' wish to send their children to a school of the second nationality among the possibilities for exceptional admission for "valid reasons". In the government proposal, they objected to the 10 percent maximum limit for pupils who were not proficient in the language of instruction in one class: they said it would be a problem in many locations where there were many Czech servants and German parents sent their children to Czech *Volksschule* at pre-school age to learn Czech (with the expectation that they would continue their education in a German school). They insisted on an explicit statement that should the provincial or district school inspector re-examine children, the competent inspector must come from the school board superior to the school, that is, from the school board of the same nationality (literally, "from the relevant section of the provincial school board"). They did not even agree that the right to complain about the enrolment of children should be given to a school board of the other nationality.<sup>36</sup>

Finally, in May 1907, the Implementing Regulation of the Ministry of Religious Affairs and Education (named after Minister Marchet) was issued, as presumed by Perek's Act.<sup>37</sup> It entered into force on 1 August and was a debacle for the Czech national activists. The basic principle of Perek's Act, that children should attend a school corresponding to their language competence, was annulled in essence by Marchet's Regulation, which included a definition that was already very flexible: a child was considered to have knowledge of the language of instruction if he or she knew the language well enough to be able to follow the lesson. Moreover, Marchet's

<sup>35</sup> OeStA, Haus- Hof- und Staatsarchiv (HHSt), Nachlass Gustav Marchet, box 11, Bemerkungen der böhmischen Abgeordneten für den Landtag der Markgrafschaft Mähren, Dr. Koudela, Dr. Perek und Dr. Pražák zu dem Oktoberregierungsentwurf der Durchführungsvorschrift bezüglich des § 20 des mährischen Landesgesetzes vom 27. November 1905 Nr. 4 L.G.Bl. ex 1906... (dated 1 November 1906); Bemerkungen der böhmischen Abgeordneten für den Landtag der Markgrafschaft Mähren, Dr. Koudela, Dr. Pražák und des gewesenen Landtags-Abgeordneten Dr. Perek zu dem – aus dem Monate Jänner 1907 stammenden – Regierungs-Entwürfe der Durchführungs-Verordnungen... (dated 12 February 1907).

<sup>36</sup> OeStA, HHSt, Nachlass Gustav Marchet, box 11. undated, unsigned; *Ibid.*, Deputy Heinrich d'Elvert's comments on the government's latest proposal of the implementing regulation for the Lex Perek (undated).

<sup>37</sup> Verordnung des k. k. Ministeriums für Kultus und Unterricht vom 14. Mai 1907, womit Bestimmungen zur Durchführung des § 20 des mährischen Landesgesetzes vom 27.11.1905, L.=G.=Bl, Nr. 4 ex 1906, betreffend die Errichtung, Erhaltung und den Besuch der öffentlichen Volksschulen getroffen werden.

Regulation provided a list of the acceptable exceptions to that definition of knowledge of the language: 1) if it was the express wish of the parents or their representatives and this wish was justified by the fact that the child had not learned the language of its parents at preschool age but, for example due to contact with relatives, peers, servants, etc., knew only the second land language, or if the parents or their representatives wished to send the child to a certain school for other valid reasons; 2) if the child had already attended another school of the same language the previous year; 3) if the child was on a *Kindertausch* (exchange) in order to learn the second land language. The total number of children thus admitted via exceptions who were not proficient in the language of instruction could not exceed a tenth of the number of pupils in the class, so as not to jeopardize teaching.

If a child was admitted to a *Volksschule* on the basis of his or her knowledge of the language of instruction rather than as the result of an exception, and if the local school board of the other nationality questioned the child's knowledge of the language, the child was asked to appear before a commission for a language examination. The provincial school inspector or the district school inspector was supposed to be present at the test while representatives of the local school board of the other nationality were not allowed to attend.

At the very least, the Implementing Regulation provided that the local school board of the other nationality would receive a list of every child who had been admitted and those who had been rejected after their enrolment. This list was also supposed to show which children had been admitted without having knowledge of the language of instruction, that is, pupils who had been admitted because of exceptions. From the Czech perspective, the obligatory exchange of the lists of enrolled children was probably the only upside of the new regulation: it made it easier for the Czech local school boards to draw up complaints, because previously they had not known exactly which children were enrolled in public German schools, which in private schools, and which attended, for example, a school in a neighbouring municipality. The local school board of the other nationality was then entitled to lodge a complaint within a fortnight of being notified. Marchet's Regulation thus clearly delegated the right to complain to local school boards. The complaint was to be decided by the relevant competent school authorities (i.e., in the case of children reclaimed from German schools by German ones and in the case of children reclaimed from Czech schools by Czech ones) by the beginning of the second semester at the latest.

A comparison of the final version of the Implementing Regulation and the previous Czech and German comments on the ministerial drafts makes it clear that the final text was much closer to German than Czech ideas. In practice, the parents or legal guardians of children unfamiliar with the language of instruction had only to obtain a certificate from the district governor's office stating that they wanted to send their child to a certain school for any "substantial" reason. In the case of children in the first form, it was also accepted that the parents wanted their child to receive German schooling to ensure better prospects.<sup>38</sup> The only limit was the stip-

<sup>38</sup> *Indra*, Richard: Zákon Perkův [Perek's Act]. Zábřeh 1913, 5.

ulation that the number of pupils per class who were unfamiliar with the language of instruction could not exceed 10 percent.

On the basis of the list of children enrolled at the beginning of the 1907-1908 school year in German *Volksschulen* in Vítkovice supplied to the Czech local school board, on 29 October 1907 the latter reclaimed 13 pupils from the 1<sup>st</sup> German boys' school, nine pupils from the 2<sup>nd</sup> German boys' school, 25 pupils from the 3<sup>rd</sup> German boys' school, 19 pupils from the public German girls' school, and 18 pupils from the convent German girls' school. The Czech local school board requested that the children be subjected to a language examination.<sup>39</sup>

The archives contain comments on the complaint from the German boys' schools. The administrator of the 1<sup>st</sup> seven-form German boys' *Volksschule* stated that of the 13 reclaimed pupils, five could speak German, seven were admitted because they had already attended a German school the previous year, and one pupil was admitted on the basis of a report card from the Czech school he had previously attended, where he had taken German and had passed it. In addition, the school administrator stressed that nine other boys had been rejected during enrolment because they were unfamiliar with the language. The administration of the 2<sup>nd</sup> boys' *Volksschule* submitted a written statement from the parents that they wanted to have their children educated in a German school voluntarily and without pressure. The administration of the 3<sup>rd</sup> boys' *Volksschule* proceeded similarly.<sup>40</sup>

A total of 226 children were reclaimed by the Czech Local School Board of Moravská Ostrava after enrolment for the 1907-1908 school year. The German District School Board of Moravská Ostrava rejected every point of the complaint: for 112 children about a re-examination showing knowledge of German; for six children about a language examination during enrolment (they could not be re-examined due to illness); for 30 children because they had already attended a German school in the previous school year; for 78 children on the basis of special permission without knowledge of the language (where the limit on the share of children in the class who were not qualified in a language was not exceeded). The Provincial School Board of Moravská Ostrava confirmed this decision as did the Ministry of Religious Affairs and Education after another appeal to a higher instance.<sup>41</sup>

The rare decision on the expulsions from a German school resulting from a protest by the Czech school board did not automatically mean that the child would be transferred to a Czech school. The usual practice was that the parents, assisted by the

<sup>39</sup> AMO, Městský školní výbor Ostrava, uninventoried. Complaint of the Czech Local School Board from Vítkovice dated 29.10.1907.

<sup>40</sup> *Ibid.*

<sup>41</sup> A complaint by the Czech Local School Board in Moravská Ostrava about the decision of the Moravian Provincial School Board of 24 March 1908 on the issue of enrolments in German schools. OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18, box 5259. In the fall of 1907, a complaint about the admission of 54 children to German schools was also filed by the Czech local school board in Přívoz. The results of the investigation were not preserved in the archives, but it is likely that it failed. See Moravský zemský archiv [Moravian Provincial Archives, MZA], Zemská školní rada [Provincial School Board, ZŠR], box 289, inv. no. 5651.

German school board, appealed against the decision to a higher instance. Then, many months usually passed, and the school year ended. At the beginning of the next school year, the child was re-enrolled in the German school and formally reassessed. It was not until 1911 that the ACJ's ruling made the practice more stringent: if the Moravian Provincial School Board confirmed the district school board's decision regarding the illegality of the child's admission to the school because of a violation of the second paragraph of section 20 of the Lex Perek, the child was to be handed over to the relevant school immediately, regardless of whether an appeal against the decision had been lodged.<sup>42</sup>

In theory, it was only possible to reclaim a child from a German school in rare cases where the school had made a formal error justifying or, more precisely, had failed to justify admitting a child who was not proficient in the language of instruction. One example is the case of Sebastian Jamrosch, a retired miner from Moravská Ostrava who appealed against the district school board's decision of 15 October 1906 (No. 1830), about the transfer of his son from the first form of a German *Volksschule*<sup>43</sup> because he did not speak German and the father had not given a reason for an exemption from the Lex Perek. Jamrosch stated in the appeal that his son could already speak some German and that his four older children had also attended a German school and that their knowledge of German was an advantage for them. He succeeded in his appeal.<sup>44</sup>

In Brno, the Czech district school board reclaimed 609 children at the beginning of the 1907-1908 school year. After a recalculation, the authorities arrived at the number 605, because four children were listed twice in the complaint. An investigation showed that 61 children attended a Czech, not a German school, 14 children attended a private school (the Lex Perek did not apply to private schools), and six were pupils at a vocational school, while 35 children had already attended a German school the previous year and thus could not be reclaimed. Under the exception (the parents' wish), the German schools admitted 31 children. The remaining 440 pupils were subsequently re-examined in their knowledge of German. The majority of 403 pupils allegedly showed that they had a good knowledge of the language, whereas 11 children had not mastered the language and were subsequently transferred. The remaining children missed the two re-examination dates because of illness or because they had moved in the meantime.<sup>45</sup>

The success rate of reclaiming children from German to Czech schools was therefore quite marginal in towns with a German town council. The situation was different in Prostějov, the largest town in Moravia with a Czech city hall. The town coun-

<sup>42</sup> Budw. 8310 A (No. 6579 of 10 June 1911). Budwinski's Sammlung der Erkenntnis des k. k. Verwaltungsgerichtshofes. Administrativrechtlicher Teil (1911). Wien 1912.

<sup>43</sup> AMO, Městský školní výbor Ostrava, not inventoried. Following a complaint by the Matic in Ostrava of 19 September 1906. It concerned a second-grade pupil who had previously attended a Czech school.

<sup>44</sup> AMO, Městský školní výbor Ostrava, not inventoried, an appeal filed by Edmund Palkovský, a chairman of the Matic in Ostrava, on 9 November 1906, against the decision of the District School Board of Moravská Ostrava (No. 2035 of 29 October 1906).

<sup>45</sup> MZA, ZŠR, inv. no. 290-12366.

cil there had been in German hands until the early 1890s, and by that time two boys' and girls' *Volksschulen* with German as the language of instruction had been established. These had the space – indeed more than enough space – to admit both children who were clearly German and some who were not. At that time, a quarter of the population (only 6 percent in 1910) claimed daily use of the German language. As the place where Václav Perek was active, Prostějov received special attention before children enrolled for the 1906-1907 school year. In September 1906, the chairman of the Prostějov Local School Board<sup>46</sup> delegated its Czech members to supervise enrolment in German schools and its German members to supervise enrolment in Czech schools to ensure mutual control. Before enrolment, the listing of schoolchildren took place on a house-to-house basis. Every child's language abilities were recorded, showing which children spoke only Czech, which ones spoke only German, and those who spoke both languages. Children who had mastered both languages were included in both the Czech and the German lists.<sup>47</sup> The lists were then submitted to the headmasters carrying out the enrolments, who were ordered to use the list as a basis for enrolment and to enrol only children from the list in the school they were in charge of.

However, an order like this, addressed to the school headmasters, was contrary to the legislation. On 15 September 1906, the district school board used a circular to notify school principals that admitting children was within their competence and that members of the local school boards or municipal councils had no authority in this regard.<sup>48</sup> Following the delivery of this announcement, the German school administrators even admitted children who did not know the language of instruction at all into the first form.<sup>49</sup> On 25 September 1906, Marchet, the minister of Religious Affairs and Education, asked for information about the situation in Prostějov by telegraph. What had apparently led him to intervene was a telegram Heinrich d'Elvert, a German political leader from Moravia, a provincial as well as a *Reichsrat* deputy, had sent the same day. On 14 September, the ministry had already received another complaint by telegraph, sent by the *Deutschpolitischer Verein* in Proßnitz.<sup>50</sup>

Four sets of group complaints from parents were sent to the district school board. These were about children whose applications for admission to German schools

<sup>46</sup> The division of local and district school boards into Czech and German did not occur in Moravia until 1907.

<sup>47</sup> SOkA Prostějov, Paměti dr. Příkryla 1893-1909, box 55, education. Příkryl's information is also confirmed by a written complaint filed by Ludwig Brüll for the *Deutschpolitischer Verein* in Prossnitz to the Ministry of Religious Affairs and Education – OeStA, AVA, Unterrichtsministerium, 18 Mähren, box 5263.

<sup>48</sup> SOkA Prostějov, Osobní fond dr. Příkryl, complaints about the enrolment of pupils in first grades in the 1906-1907 school year, No. 694. According to Viennese materials, this concerned the regulation of the Provincial School Board Zl. 1329 of 16 September 1906, which the district school board had been ordered to distribute. The content of the regulation is identical. See OeStA, AVA, Unterrichtsministerium, 18 Mähren, box 5263.

<sup>49</sup> SOkA Prostějov, Osobní fond dr. Příkryl, complaints about the enrolment of pupils in first grades in the 1906-1907 school year, No. 757, the Prostějov Local School Board and the town council to the district school board, 28 September 1906.

<sup>50</sup> OeStA, AVA, Unterrichtsministerium, 18 Mähren, box 5263.

were initially rejected. Three involved a Christian municipality and one an administratively independent Jewish municipality; in total, they concerned 111 children. Of these, 35 transferred to a Czech school shortly after the complaints were submitted, and the district school board recognized the validity of the complaint for 19 children, allowing them to stay in a German school. In a complaint to the Provincial School Board, the parents of 45 children who had not been admitted (i.e., only some of the parents whose children were not admitted) requested provisional admission to a German school.

The Provincial School Board complied in October 1906, and, in addition, advised the Prostějov District School Board that exceptions were also possible under the text of the *Lex Perek* (“as a rule”). For exceptional cases, ones where the parents wanted their child to go to a school in whose language of instruction he or she was not proficient, the Provincial School Board instructed the Prostějov District School Board to examine the reasons for granting exemptions and base its decisions on those.<sup>51</sup>

In December 1906, the Provincial School Board made its decision. It rejected the parents’ appeal and confirmed the district school board’s decision.<sup>52</sup> However, only some of the children who had been reclaimed started attending a Czech school; according to a protocol statement made by their parents, others were taught at home (by means of so-called home-schooling), and their parents planned to enrol them in the second form of a German school in the next school year.<sup>53</sup>

Václav Perek and Ondřej Příkryl intentionally included children in the complaints who – according to them – could not speak German but had attended a German school the previous year. They expected that even in these cases, verifying the students’ language skills would meet with resistance from higher education instances, but expanding the *Lex Perek* beyond children in the first form offered an opportunity for both a possible judicial decision and a focus on applying pressure to modify the Implementing Regulation in a more suitable way.<sup>54</sup>

In 1906, only 48 children (in contrast to 144 in the previous school year) were enrolled in German schools in Prostějov. In the eyes of Czech local leader Ondřej Příkryl, this was an excellent result.<sup>55</sup> Thus, almost two-thirds of the overall loss of 165 children at the German schools in Prostějov was due to the drop in the number of children in first forms. At least part of the remaining third can be attributed to the changing climate in the municipality, in which the Czech town council, Czech associations, and the overall increase in Czech political significance affected the parents. However, the question is whether Příkryl’s evaluation also includes the successful

<sup>51</sup> SOkA Prostějov, Okresní školní výbor [District School Board, OŠV] Prostějov, admitting children to Czech and German schools in Prostějov in 1903-1909, Provincial School Board Z. 20676 of 10 October 1906.

<sup>52</sup> SOkA Prostějov, OŠV Prostějov, admitting children to Czech and German schools in Prostějov in 1903-1909, Provincial School Board Z. 23896 of 21. December 1906.

<sup>53</sup> SOkA Prostějov, OŠV Prostějov, admitting children to Czech and German schools in Prostějov in 1903-1909.

<sup>54</sup> SOkA Prostějov, Osobní fond dr. Příkryl, complaints about the enrolment of pupils in first grades in the 1906-1907 school year, No. 694.

<sup>55</sup> SOkA Prostějov, Paměti dr. Příkryla 1893-1909, box 20.

final appeals against non-admission to German schools. We know of 19 children who were eventually enrolled in a German school on the basis of a complaint. In any case, the developments in 1906 had a much greater influence on the ratio of children in German and Czech schools in Prostějov than in, say, Moravská Ostrava, Jihlava, or Brno.

*The period after the landmark ruling of the ACJ of late 1910*

From the point of view of the Czech national activists, the ACJ's ruling, No. 5633 of 10 July 1909 (Budwiński 6869 A), was a partial improvement. The court's ruling established a binding practice for the future: a representative of the school board of the other nationality (i.e., the one that had reclaimed the child for its school) had the right to attend re-examinations to determine the child's language skills. Under the Lex Perek, a re-examination that determined a student's language skills was the basis for ascertaining the legality of the child's admission to a school – but the representative of the other nationality's school board was there only as an observer.<sup>56</sup>

A more notable achievement of the Czech national activists was the ACJ's ruling of 11 December 1910, No. 6727 (Budwiński 7843A), which concerned the dispute between the Czech District School Board and German District School board in Uherské Hradiště<sup>57</sup> over admitting children to a German *Volksschule* who, in the Czech District School Board's opinion, were not proficient in German.

The judges produced a significant challenge to the provisions of Marchet's Implementing Regulation, finding it contrary to the act. They concluded that the Lex Perek specifically required a child to be proficient in the language of instruction, not just to be able to follow a lesson in that language. They stated that normally a schoolchild only had that kind of mastery of his/her mother tongue – the language of his or her nationality, the language of his or her parents.

The ruling established that exceptions to the Lex Perek should not be determined by the school authorities based on their own discretion and that knowledge of the language meant the ability to use that language as a means of communication and to be able to formulate one's thoughts and ideas in it. It also stated that if there was only one school in a school district, all the children residing in that district could be admitted to it even if they were not proficient in the language of instruction. However, if there were schools of both nationalities in the school district, the parents had the right to choose a school of one nationality or the other only if the child was proficient in the school's language of instruction. Examinations to determine a child's language skills would be held in the presence of representatives of both local school boards.<sup>58</sup> Furthermore, the ACJ concluded that local school boards were not mere authorities in the technical sense of the word, but also bodies of the local

<sup>56</sup> Národní archiv v Praze [National archives Prague, NA], Správní soudní dvůr/Rakousko [Administrative Court of Justice/Austria, SSD/R], box 84, no. 9844/1908 (Budwiński 6869 A).

<sup>57</sup> At the same time, the court discussed two similar cases concerning Lipník/Leipnik and Husovice/Hussowitz.

<sup>58</sup> NA, SSD/R, box 82, Aktenbund II/150 1908, ruling No. 6727 from 11 December 1910.

national unions, which were called upon to enforce the nation's legal claims to the incorporation of its children into the corresponding schools.

The rights of the legal representatives of Moravian schoolchildren to choose a school according to the language of instruction were thus significantly limited to three cases: 1) bilingual children; 2) children who belonged to a given nationality but did not know its language (this rather exceptional option seemed to apply mainly to children from mixed marriages who did not speak the language of the father, whose nationality they took by law); 3) children of a nationality other than German or Czech.

After the publication of rulings concerning Uherské Hradiště, Lipník/Leipnik, and Husovice/Hussowitz, the Czech politicians began pushing the government to revoke the parts of Marchet's Regulation they consider defective.<sup>59</sup> The Ministry of Religious Affairs and Education had to react to the rulings whether it wanted to or not, because they had declared that the existing practice was illegal. It therefore initiated negotiations during which an acceptable change in the previous practice was to be negotiated beforehand with representatives from both the Czech and German sides. A relatively bulky folder of background materials can be found in the Austrian State Archives. This folder includes the stances of both the Czech and German sides and provides a vivid picture of the initial steps in revising the Implementing Regulation.<sup>60</sup>

On 10 April 1911, preliminary negotiations with representatives of the German and then the Czech side took place separately at the Moravian *Statthaltere*.<sup>61</sup> On that day, both sides received a ministerial draft of the new Lex Perek Implementing Regulation and subsequently prepared their opinions on it.

The German representatives, entirely in accordance with their position from the start of the negotiations, took the view that the education of one nation should be exempted from any influence from the other nation. They argued that Marchet's Implementing Regulation violated this principle by granting the local school board of the other nationality the right to complain. The Germans protested such a legal interpretation by the ACJ. They were against the issuing of any new implementing regulation, just as they had been against Marchet's Implementing Regulation. On the contrary, they called for the parental right to choose their child's school in the broadest possible terms, which is why, in this paragraph, they wanted to exempt from the effect of the Lex Perek on children whose parents or legal representatives demonstrated the need for an exemption on serious grounds (these were not specified in any way).<sup>62</sup>

<sup>59</sup> SOkA Prostějov, Osobní fond dr. Píkrýl, education in 1899-1922.

<sup>60</sup> OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18 A, box 5234.

<sup>61</sup> Delegations were sent by the relevant parliamentary committees of the Land Diet. The German delegation included Hermann Brass, Heinrich d'Elvert, Alfred Fischel, Wilhelm Freisler, Heinrich Fritsch, Gustav Gross, Fritz Hirth, and Johann Jarolim, while the Czech one included Jaroslav Budínský, Josef Koudela, Otakar Pražák, Josef Staroščík, Tomáš Šilinger, František Šromota, and Jan Žáček.

<sup>62</sup> See Promemoria der Deutschen zur geplanten Erlassung einer neuen Durchführungsvor-

As expected, the Czech political representation defended completely different positions. It disagreed with the regulations still in force for the administrative process of enrolling children: It demanded that the determination of the language of daily use should take place separately from school enrolment, that is, four weeks (or, in towns with a population of more than 20,000, even three months) before the end of the school year. It also called for the exam to be administered by an impartial state examination committee. A child should only be admitted to a school after the principal received official confirmation that the child was proficient in the language of instruction. According to the Czech position, there was no need for exceptions, since, according to the act, it was not nationality that mattered, but knowledge of the language. Strictly speaking, only a child proficient in both languages and a child proficient in neither of the two land languages would have the right to choose a school. Decisions regarding complaints about admission to a school were to be made either by the school authority superior to the complaining school board or by a special committee of the Central Collegium of the Provincial School Board. The Czech side strongly disagreed with the provision that the child remained in the school to which it was admitted until the complaint was processed. It also complained about the form re-examination took, in which children were prepared in advance for the questions they would be asked.<sup>63</sup>

It is obvious why the German negotiators defended the principle of full autonomy of their own educational institutions, whereas the Czech ones favoured supervision by an impartial body. The number of German children enrolled in Czech-language schools was minimal.

Owing to the disagreement in opinions, the Ministry of Religious Affairs and Education abstained from issuing a complete new Implementing Regulation for the *Lex Perek*, limiting itself only to repealing those parts of Marchet's Regulation that the ACJ had found to be contrary to the act. Minister of Religious Affairs and Education Karl von Stürgkh, issued the relevant regulation, Regulation No. 29, on 1 August 1911.<sup>64</sup> However, did ruling No. 7843A and the subsequent revision of Marchet's Regulation mark a major breakthrough in the complaint procedures? The following cases clearly show that it did not.

At the beginning of the 1912-1913 school year, the Local School Board of Moravská Ostrava reclaimed 80 children of allegedly Czech nationality enrolled in German schools. In its reasoning, it referred directly to the ACJ's ruling, No. 6727

---

ordnung zur *Lex Perek*, undated. OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18 A, box 5234.

<sup>63</sup> OeStA, Allgemeines Verwaltungsarchiv 1848-1918, call Nr. 18 A, cart. 5234. Erinnerungen der böhmischen Landtagsabgeordneten Dr. Budinský, Dr. Edlen von Koudela, Dr. Baron Pražák... zum Entwurf einer Verordnung des Ministeriums für Kultus und Unterricht..., 12 May 1911.

<sup>64</sup> Verordnung des k. k. Ministeriums für Kultus und Unterricht, womit einige Bestimmungen der zur Durchführung des § 20 des mährischen Landesgesetzes vom 27. November 1905, L.=G.=Bl. Nr. 4 ex 1906, betreffend die Errichtung, Erhaltung und den Besuch der öffentlichen Volksschulen, erlassenen Ministerialverordnung vom 14. Mai 1907, L.=G.=Bl. Nr. 52, außer Wirksamkeit gesetzt werden.

of 11 December 1910 (Budwiński 7843A). The German District School Board replied that re-examination had shown that 39 children were proficient in the language of instruction. Two children had already been admitted in previous years and, as they had not been reclaimed at that time, they were not subject to reclamation now. The parents of four children claimed German nationality, were of German origin, and used German in their social lives. Although the parents of five children were of Czech or Polish origin, they claimed German nationality and used mainly German in social intercourse. Another 25 children were (legally) of Polish origin, as their fathers were Polish. In contrast, an investigation of four children of allegedly German nationality showed that their parents claimed Czech nationality, were of Czech origin, used Czech in their households and social life, and were registered in the Czech registry. As the children did not speak German, they were ordered to be transferred to a Czech school.

The parents of the four children appealed against the decision to expel their children from the German school. The district governor's office ordered the Police Commissioner's Office of Moravská Ostrava to investigate the nationality of the parents. According to the results of the investigation, all the fathers (and, in the case of one child, also the mother) came from the Místek/Mistek region, had attended a Czech *Volksschule*, and spoke the local Czech-Polish dialect. It is obvious, then, that there could be no clear assumption of Polish nationality, and definitely no evidence of German nationality. However, on appeal, the Provincial School Board of Moravia annulled the decision concerning the transfer of three of the four children from the German *Volksschule* in Moravská Ostrava and ordered that they be allowed to remain at the school, because a re-examination under section 8 of the Ministerial Decree of 14 May 1907 showed that they were proficient in the language of instruction. The fourth child was yet to be re-examined by the school authorities, having missed the first date due to illness.<sup>65</sup>

The Czech local school board also appealed against the decision of the German district school board. In the case of two female pupils, it contradicted the assertion that the parents claimed German nationality. As evidence for its claim, it pointed out that the parents were registered in the Czech electoral registry, spoke only Czech, and, as workers, did not have other associational or social connections which could help to determine their national belonging in the sense of the ACJ's ruling No. 11019 of 30 December 1910 (Budwiński 7846A; this was the ruling that established the rules of national classification of the members of local school boards in Moravia). In the case of the parents of three children, the claim that they were of Polish nationality was rejected on the grounds that they were registered in the Czech electoral registry and spoke Czech, not Polish, at home. After an investigation, the Provincial School Board ordered that Vlasta Skoumalová be transferred from the German school, as the investigation of her father's nationality found that he had to be considered a member of the Czech nationality. The reason was that Rudolf Skoumal stated during questioning that he claimed Czech nationality and was registered in the

---

<sup>65</sup> AMO, Městský školní výbor Ostrava, uninventoried.

Czech registry in the list of voters for the 1911 imperial elections. Rudolf Skoumal appealed to the Ministry of Religious Affairs and Education and succeeded, apparently due to a formal error in the proceedings, because there was no protocol about what Vlasta Skoumalová's language skills were at the time in question, that is, at the beginning of the 1912-1913 school year.<sup>66</sup>

The adoption of Stürgkh's Regulation, which invalidated the illegal section 3 of Marchet's Regulation, was one of the last pre-war developments that mobilized the Czech activists in the fight for schoolchildren in Brno. The Czech district school board reclaimed 926 children on 16 October 1912. The complaint failed for several reasons: For one thing, the examination stipulated for 672 children on 12 December 1912 showed that they were proficient in the language of instruction. Moreover, 62 children had already been unsuccessfully reclaimed in the past. Last, but not least, 81 children had attended German public schools the previous year and had not been reclaimed at that time, which meant in legal terms that they had not been reclaimed upon first admission. Because they were not at school on the day of the exam, the language examination of 57 children was postponed. For the remaining five dozen or so children, the investigation found that they were either of German or Polish nationality or did not live in the school district of the reclaiming Czech district school board. Only three pupils were transferred to a Czech school, because they had failed the language examination.<sup>67</sup>

The ACJ's precedent-setting decision from the spring of 1911 was of great importance, especially for the Ostrava region. The decision stated that the Czech local school board was not entitled to reclaim children of Polish nationality from a German school because the Moravian Compromise concerned only the Czech and German nationalities.<sup>68</sup> For that reason, in such a case the child did not even have to be proficient in German for admission to a German school. In this spirit, the German Franz Joseph Jubilee *Volksschule* in Zábřeh nad Odrou/Zabrzech, which was connected (by the parents of its pupils) with the Vítkovice mining and metallurgical workers, already had a pre-prepared school-enrolment form, which only needed to be filled out. In 1911, however, the state authorities began to check whether this national declaration was or was not in complete contradiction with reality. When the nationality of the parents of the school-age children was in doubt, the ACJ's ruling No. 11019 of 30 December 1910 (Budwiński 7846A) was key, even though it concerned the national classification of the members of the local school boards in Moravia.<sup>69</sup> When there were doubts about the sincerity of the declared national

<sup>66</sup> AMO, Městský školní výbor Ostrava, uninventoried.

<sup>67</sup> MZA, ZŠR, inv. no. 329-8024, 331-13452, 334-19938 and OeStA, AVA, Unterrichtsministerium, 18 Mähren, box 5248.

<sup>68</sup> Budw. 8076A (No. 2459 of 4 March 1911).

<sup>69</sup> The court was deciding a dispute that had been started by the Czech town council in Třebíč/Trebitsch when it delegated its representatives to the German Local School Board in Třebíč. Other members of that school board said that they were not of German nationality and complained that they would play the role of a "Trojan horse" as members of the German school board. The court stated that the school authorities should supervise the legal composition of the local school boards; the representatives of the municipality on both

belonging, this appurtenance claim was to be verified on the basis of tangible (*fassbar*) markers. To that end, it was permissible to carry out an official investigation into the personal and public life of the person concerned seeking substantial evidence of national belonging.

*Options for circumvention – private schools, kindergartens, and holiday courses*

Some children who had been successfully reclaimed from German public schools subsequently ended up in private schools. To avoid the risk of a successful complaint, the parents of other children who did not know German changed their child's enrolment, taking them from a public school directly into a private school. The *Deutscher Vorortverein* association established four private schools in the Brno cadastre and one private German *Volksschule* in the suburban municipalities of Husovice and Židenice/Schimitz.<sup>70</sup> Two German private schools operated in Vítkovice, one in nearby Hrabová/Raabe and one in Mariánské Hory/Marienberg, neighbouring both Vítkovice and Moravská Ostrava.

The Czech national activists in the Ostrava region complained about the practice of establishing German kindergartens to which many Czech children were admitted with the aim of learning the basics of German and then being able to pass the language examination when enrolling in a German school. There were 13 German and only six Czech kindergartens in Vítkovice.<sup>71</sup> There were also a large number of German kindergartens in other municipalities in the Ostrava region and in Brno.

During the negotiations about revising Marchet's Regulation, the Czech delegation stated:

In numerous cases over the past years discussed by the ACJ, it was found that during the holidays Czech children were being prepared for language examinations at German schools with the help of wall pictures and a certain sequence of questions and answers that the children memorized. Similarly, it was found that the principals of German schools used the same wall pictures as those used at the kindergartens (e.g., a winter landscape, a *Meierhof*, etc.) both when enrolling children in schools and when re-examining children, and that they asked children the same questions they had been prepared for in kindergarten.<sup>72</sup>

The application of the Lex Perek to private schools would therefore also have a major impact on German education following the tightening of the conditions for admitting children to public *Volksschulen* as a result of the revision of Marchet's Regulation. As we have already noted, the original text of Perek's proposal specifi-

---

school boards had to be of the corresponding nationality; and the legitimate representatives of a nationality had the right to challenge the choice of a municipal representative to the local school board on the grounds that the person concerned did not belong to their nationality.

<sup>70</sup> *Fischel*, Alfred: *Das tschechische Volk*. Breslau 1928, VII-VIII.

<sup>71</sup> *Schallenberger*, Alois: *Z našeho boje o české školství na Ostravsku* [From Our Fight for Czech Education in the Ostrava Region]. In: *Ostravský sborník a adresář II. ročník*. Rok 1909-1910, 232-234.

<sup>72</sup> *Erinnerungen der böhmischen Landtagsabgeordneten Dr. Budinský, Dr. Edlen von Koudela, Dr. Baron Pražák...* zum Entwurf einer Verordnung des Ministeriums für Kultus und Unterricht..., 12 May 1911.

cally mentioned private schools. In the final text, private schools were not addressed at all. On several occasions, the Czech side had also tried to reclaim children attending a German private school on the basis of the Lex Perek. They never succeeded. Let us give one example. The Czech Local School Board of Vítkovice made an attempt after the school enrolments in 1911. In explaining its reasoning, it stated:

The private German schools in Vítkovice are not established as language schools but as *Volksschulen* like public schools (with public accreditation) and are therefore subject to the provisions of the Land Act of 14 May 1907, and likewise to the regulations of the Ministry of Religious Affairs and Education of 1 August 1911.<sup>73</sup>

There was almost a breakthrough in May 1912, when the ACJ was deciding a complaint by the Czech Local School Board of Brno-Komín/Brünn-Komein regarding a decision of the Ministry of Religious Affairs and Education of 8 August 1911, on the admission of pupils from Komín to German private schools in Brno. A seven-member senate of the ACJ ruled on the complaint on 4 May 1912. Three members of the senate took the view that the Lex Perek was part of a complex of laws whose aim was to bring complete clarity to *Volksschulen* and to eliminate friction. Therefore, it should be assumed that the rules about *Volksschulen* applied to all schools, whether they were private or public. The remaining four members of the senate, however, insisted that the Lex Perek should apply only to public schools. If the vote had turned out to be 4-3 and not 3-4, it would have affected dozens of children in Brno and in the Ostrava region.<sup>74</sup>

### Conclusion

In addition to children from mixed families, several thousand children of Czech origin attended German schools in Moravia until the dissolution of the monarchy in 1918. From 1906, knowledge of the language of instruction was required when enrolling in schools, and from 1911 students were required to have an active knowledge of the language. In the event of a complaint, this was verified by an examination given by a commission. From the beginning of 1911, in order to enrol pupils who did not have a sufficient command of German it was not enough for German schools to submit only the parents' declaration of their German or possibly Polish nationality. In the case of a complaint, this self-declaration was newly subject to verification on the basis of objective signs.

Therefore, after 1905, in Brno and the Ostrava region and, to a lesser extent, most likely elsewhere as well, there was a striking increase in the number of German private schools and kindergartens. Private schools were not covered by the Lex Perek, and in kindergartens it was possible, among other things, to prepare preschool children from the Czech-language environment for a language examination during school enrolment in a German school. Until 1919, not only pupils of German nationality but any pupil proficient in German could attend German *Volksschulen* in Moravia.

<sup>73</sup> AMO, Městský školní výbor Ostrava, uninventoried.

<sup>74</sup> OeStA, AVA, Verwaltungsgerichtshof, box 310, ruling No. 5591 of 4 May 1912.

Hundreds of Czech children were admitted to German schools on the basis of their language skills; re-examinations due to complaints by the Czech local school boards confirmed that the vast majority of them were, indeed, proficient in German. However, in many cases there are legitimate doubts about whether pupils had sufficient knowledge of the language, as required by the ruling of the ACJ from late 1910. Evidence for this can also be found in the reports of German Provincial School Inspector Berger from 1913. In the report on the inspection of a German *Volksschule* in the 4<sup>th</sup> District in Moravská Ostrava, he stated:

The school's body of students [*Schülermaterial*] is recruited almost exclusively from the families of miners and metallurgists, so the school can hardly count on the co-operation of the family environment. Three-quarters of the pupils, in many classes between 80-90 percent, are of Czech or Polish nationality, and it was only thanks to kindergartens that they could be admitted to a German school...<sup>75</sup>

And in a March 1913 report on the inspection of a girls' *Bürgerschule* on Köffiler Street in Brno, he noted that:

Progress in the lessons suffers only due to a large share of female pupils from the suburbs, as many of them do not have the required level of German. The administration was advised to take account of section 163 of the School and Teaching Code when accepting pupils.<sup>76</sup>

There are several ways to look more broadly at the conflict over Moravian *Volksschulen*. First it can be examined as a conflict between individual and collective rights. The crucial question is how far it is possible or tolerable, in the interest of collective rights, in this case the nation's right to "its" children, to restrict individual rights, here parental rights. The Czech national activists insisted that collective rights should take precedence, because this limited Germanization, while the German activists saw the situation the other way, because it helped them to reduce the unfavourable demographic trend of the German population's lower natural growth.

The second perspective, understanding the conflict in terms of "national indifference", is related to the first. I do not believe that a significant number of people were indifferent to national identity at the beginning of the twentieth century. It would be more accurate to speak of a minority of people with mutable identities, which they used according to the situation. In this context, Gábor Egry proposes the term "everyday ethnicity".<sup>77</sup> If we think in terms of "everyday ethnicity" the analytical category of national indifference has some fundamental problems: How representative were those in the population of the Bohemian lands at the end of the nineteenth century who were bilingual and/or mutable in their national loyalties? How wide-

<sup>75</sup> OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18 A, box 5235. The Provincial School Board on 15 April 1913, to the Ministry of Religious Affairs and Education with the report of Provincial School Inspector Berger.

<sup>76</sup> OeStA, AVA, Unterricht Allg. 1848-1940, sign. 18 A, box 5236, no. 17512. The Provincial School Board to the Ministry of Religious Affairs and Education on 18 March 1913, with the report of Provincial School Inspector Berger.

<sup>77</sup> Egry, Gábor: Beyond politics. National Indifference as Everyday Ethnicity. In: *Ginderachter*, Maarten Van/Fox, Jon (eds.): National Indifference and the History of Nationalism in Modern Europe. Routledge, London, New York 2019, 145-160.

spread was bilingualism overall? Was it more likely that it occurred only locally – in Moravia, especially in Brno, Olomouc, and Jihlava? Even in the places where it occurred, was it a characteristic feature of a minority of the population, mainly those with Czech as their mother tongue? Zahra has not taken on the complex task of attempting to quantify the bilingual or nationally ambivalent population in late imperial Austria.<sup>78</sup> Of course, this would only be a rough estimate, since the censuses permitted people to state only one language of daily use. Nonetheless, how can a reader judge the significance, social relevance, and representativeness of a phenomenon that is not quantified, however roughly?

A third perspective is also crucial here. This is the question of majority benefit. Few legal measures are beneficial to everyone in their consequences, and this is most certainly true of the Lex Perek, especially after the tightening of its interpretation. As a whole, the Moravian Compromise aimed at the compulsory ethnic classification of persons,<sup>79</sup> which is unquestionably a controversial goal. The range of motivations that led parents of Czech or mixed origin to enrol their children in German schools was certainly wide. I will mention two which I consider to be the main ones: Firstly, German was more strongly represented in the upper strata, attracting the attention of individuals or families seeking social advancement, people who had moved from the countryside to towns in anticipation of a better life, and parents who wanted to give their children social and economic advantages. The national organizations indignantly countered this trend of assimilation, which Zahra has captured in many examples. Secondly, in municipalities, the “ruling” nationality used its position very ruthlessly, trying, by applying strong pressure, especially in the employer-employee relationship, to force Czech parents to enrol their children in German schools. The pressure often boiled over into outright threats. The situation in the Ostrava region was the most acute in this respect, but this kind of coercion also took place in the Zábřeh/Hohenstadt (the location of the factory owner Hermann Brass, chairman of the *Bund der Deutschen Nordmährens*), Brno, and Jihlava regions. The archives provide clear evidence that thousands of children with zero, poor, or insufficient knowledge of the language of instruction were admitted to German schools in this way. What was their education inevitably like?

Tara Zahra does not mention these children and focuses on the cases of bilingual individuals who were verbally attacked by Czech nationalists. It is true that national activists tried to eradicate bilingualism, but they simultaneously warned parents against enrolling children with little knowledge of German, or none at all, in a German school. I consider the negative educational impact resulting from the presence of such children in German schools much more significant than the restriction of the right of a free choice, especially since parents whose children were proficient

---

<sup>78</sup> Zahra only states once in her study that even if the nationally indifferent were a small minority until the early twentieth century, the phenomenon was historically significant. Zahra: *Kidnapped Souls* 8 (cf. fn. 13).

<sup>79</sup> *Stourzh*, Gerald: *Ethnic Attribution in Late Imperial Austria. Good Intentions, Evil Consequences*. In: *Robertson, Ritchie/Timms*, Edward (eds.): *The Habsburg Legacy. National Identity in Historical Perspective*. Edinburgh 1994 (*Austrian Studies* 5) 68.

in both languages at the time of enrolment in school retained the right of choice. In this respect, it was only the First Czechoslovak Republic and not Habsburg Cisleithania which abolished the right of free choice, even for Moravian bilingual children. The introduction of the rule that the pupil must attend the school with the language of instruction that corresponded to his nationality certainly did not suit hundreds of bilingual families who lost the possibility of free choice. They could no longer practice situational ethnicity. However, the new Czechoslovak state's harsh reaction must also be seen in the context of previous decades, when at least thousands of Czech children were enrolled in German schools, not as a result of freely chosen everyday ethnicity, but as a result of pressure on parents. The new Czechoslovak school practice was certainly neither perfect nor impartial but measured from the point of view of the benefits of education in a student's mother tongue, it marked a definite step forward.

This is not to read the historical record through a nationalist lens, which should be avoided. In this respect, I fully agree with King's criticism of ethnicism,<sup>80</sup> which is still abundant in Czech historiography. As Gary B. Cohen argues, the historiography of late imperial Austria puts too much emphasis on the increasing national conflicts.<sup>81</sup> On the other hand, as a historian, I try to be wary of bringing contemporary social discourses into times past that were necessarily different. This also applies to national, ethnic and racial issues.

The highly regarded expert on the Dualist era in Cisleithania, Gerald Stourzh, encourages historians to move away from an excessive emphasis on both constructed ethnic or national communities and the persistence of national indifference, which obscures the extent to which the Habsburg Empire was a multi-national state in the late nineteenth-century.<sup>82</sup> It is precisely because of its exceptional multi-nationality that Cisleithania had specific problems in its functioning. Reconciling the demands of the individual nationalities and their political representatives was very difficult for the state administration, especially in combination with increasing democratization and the emphasis on national rights in popular political life. The contentious debates and struggles over schooling in Moravia are proof of this. It is also a testament to the nationalization of the municipal self-governments and the local milieu as a whole.

---

<sup>80</sup> King, Jeremy: The Nationalization of East Central Europe. Ethnicism, Ethnicity and Beyond. In: Bucur, Maria/Wingfield, Nancy (eds.): Staging the Past. The Politics of Commemoration in Habsburg Central Europe, 1848 to the Present. West Lafayette/Ind. 2001, 137.

<sup>81</sup> Cohen, Gary B.: Společnost, politický život a vláda v pozdně imperiálním Rakousku. Zamyšlení nad novou syntézou [Society, Political Life and Government in Late Imperial Austria. A Reflection on a New Synthesis]. In: Český časopis historický 102 (2004) 745-765, here 746, 747.

<sup>82</sup> Stourzh: The Ethnicizing of Politics 296-306 (cf. fn.3).