

The Temporal Effect and the Continuance in Force of the Treaty of Trianon

A Hundred Years Later

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Abstract

The 1920 Trianon Peace Treaty ended World War I between Hungary and its belligerents. Nonetheless, one hundred years have passed since then, yet this peace treaty is still unsettling to many, causing misbelief, hatred, anger and misunderstanding both in Hungary and its neighboring countries. To unearth the temporal aspects of the Trianon Peace Treaty, more precisely, to identify exactly what obligations remain in force following this rather hectic century, it is indispensable to study the temporal effect of this agreement. The present article aims at arriving at a conclusion in relation to several misbeliefs held with respect to the Trianon Peace Treaty as well as the issue of its termination.

Keywords: peace treaties, Trianon Peace Treaty, termination of treaties, temporal effect of international treaties, law of international treaties.

1. Introduction and Some Initial Remarks on the Temporal Effect of the Trianon Peace Treaty

Anniversaries always provide ample opportunities to take stock of the aftermath of historical events. It is now time to examine the evolution of Hungary's peace treaty regime, looking deeper into the so-called Trianon Peace Treaty (TPT). The TPT or as it is officially known in English, the "Treaty of Peace Between The Allied and Associated Powers and Hungary"¹ was signed by the parties exactly a century ago on 4 June 1920. The TPT had two major international legal as well as political functions.² On the one hand, it was meant to establish peace among the former belligerents. On the other hand, it was to serve – together with the other

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1 For the English version of the Trianon Peace Treaty see Lawrence Martin (comp.), *The Treaties of Peace 1919-1923. Vol. 1*, Carnegie Endowment for International Peace, New York, 2004, pp. 461-648.

2 Gábor Kardos, 'Békeszerződések a nemzetközi jogban', in Boldizsár Nagy & Petra Jeney (eds.), *Nemzetközi jogi olvasókönyv. Dokumentumok és szemelvények*, Osiris, Budapest, 2002, p. 833.

‘principal’ peace treaties³ and other relevant international agreements⁴ or instruments⁵ – as one of the pillars of the new international order that was to be established by the victorious powers after World War I. The TPT has symbolic relevance especially in Hungary, and possibly also in the neighboring political and geographic environment.⁶ ‘Trianon’ has been so much more than an ordinary international agreement in Hungary, ever since its adoption. It is considered by many to have caused a ‘national catastrophe’, serving as a point of reference for much of the difficulties that arose in Hungarian society following its conclusion. For all these reasons, it is still very difficult to deal with the TPT even after a hundred years had passed, albeit notable Hungarian scholars had already started to discuss the different legal aspects of this agreement immediately after the Treaty had been signed in *Grand Trianon*.

In my paper, I will examine the questions relating to the temporal effect of the TPT a hundred years on. In the course of this research, I seek answers in particular to the following questions: (i) What does the TPT say about its temporal effect? (ii) What is the relationship between the TPT and other relevant treaties concluded after the TPT had been signed? (iii) Is the TPT still in force? In addition, I also try to dispel some misconceptions regarding the *rationae temporis* of the TPT as well as its validity.

The Trianon Peace Treaty entered into force more than a year after it had been signed when the depositary, the Republic of France received the notifications of the Kingdom of Hungary as well as three of the Principal Allied and Associated Powers on accomplishing the ratification process.⁷ The depositary then drew up the first *procès-verbal* of the deposit of ratifications and the date of this *procès-verbal* marked the coming into force of this treaty at least among Hungary and the three other High Contracting Parties who had completed the ratification.⁸ The scope of the TPT extended to relations with other signatories following the date of the deposit of their respective ratification instruments.⁹ Interestingly, the TPT allowed non-European signatories to merely inform the French government on the accomplishment of the ratification process in their

3 Treaty of Versailles of 1919 concluded with Germany; Treaty of Saint Germain-en-Laye of 1919 concluded with Austria; Treaty of Neuilly-sur-Seine of 1919 concluded with Bulgaria; Treaty of Trianon of 1920 concluded with Hungary; Treaty of Sèvres of 1920 concluded with Turkey; and the Treaty of Lausanne of 1923 concluded with Turkey. On the Saint-Germain-en-Laye Treaty of 1919 see Róbert Fiziker, ‘Az osztrák Trianon. A saint-germaini békeszerződés’, *Világtörténet*, 2013/4, pp. 429-449.

4 Such as the bilateral peace agreements concluded between the US and the Central Powers or the treaties concluded with some newly emerged states under the auspices of the League of Nations.

5 Unilateral declarations of certain states.

6 There were rumors in 2019 that Romania wanted to declare the date of signature of the Trianon Peace Treaty a national holiday. For the perception of the Trianon Peace Treaty in Romania and Slovakia see István Kollai & Csaba Zahorán, ‘Trianon a román és szlovák köztudatban’, *Kommentár*, 2007/3, pp. 35-44.

7 *Procès verbal de dépôt des ratifications britanniques, françaises, italiennes, japonaises, belges, roumaines, serbes-croates-slovènes, siamoises, tchécoslovaques et hongroises pour le Traité de paix, le Protocole et la Déclaration*.

8 See Article 364 of the Trianon Peace Treaty.

9 Id.

own countries by notifying the depositary through their respective diplomatic missions.¹⁰ They were allowed to send the instrument of ratification *ex post facto*.¹¹ Furthermore, the TPT added: the deposit of ratifications should be made as soon as possible.¹² As a depositary, France had the obligation to keep the state parties to the TPT updated on all *procès-verbaux* on deposited ratifications by sending them copies.¹³ One of the popular misconceptions in Hungary is related to the ratification process of the TPT. Some say, the Trianon Peace Treaty never entered into force because the US had not ratified it.¹⁴ The US Senate has the power to ratify international agreements on behalf of the state, based on the relevant article of the US constitution.¹⁵ While it is true, that the TPT had never been ratified by the Senate, this is not a unique case. The first peace treaty that was not ratified by the ‘upper chamber’ of Congress was the 1919 Treaty of Versailles concluded between Germany on the one hand and the Principal and Allied Powers on the other.¹⁶ The Treaty of Versailles was beyond doubt the most important from among the five major peace treaties concluded between the victorious and defeated powers after World War I. Serving as a kind of ‘prototype’ brokered primarily by French diplomacy, the remaining four peace treaties of the Paris Peace Talks shared some significant common features with the Treaty of Versailles. Most importantly, Part I. of each treaty was essentially the same, as this contained the Covenant of the League of Nations. Similarly, Part XIII of the Treaties of Versailles, Saint-Germain and Trianon, respectively, as well as Part XII of the Treaties of Neuilly-sur-Seine and Sèvres, covered the topic of ‘Labour’ which meant in fact the same text was inserted in each of the peace treaties in question. These two Parts were formulated guided by the ideals of President Woodrow Wilson, and this US approach¹⁷ follows *inter alia* indirectly from the Treaties’ rules on authentic languages. More concretely, the articles governing the authentic texts of these international peace agreements are evidence to the grade of interests and influence of the ‘Big Four’ during the peace talks. Each of these treaties had been authenticated in three different languages, namely French, English and Italian, although in the event of difference among the language variations, the French version automatically prevailed. However, this was with the exception of the Parts regulating the Covenant of the League of Nations and the issue of ‘Labour’, where in line with Wilson’s wishes the English text enjoyed

10 Id.

11 Id.

12 Id.

13 Id.

14 On these misconceptions see e.g. <https://24.hu/tudomany/2017/06/04/meg-harom-ev-es-lejar-trianon/>.

15 See in this respect Article II, Section 2 of the US Constitution: “[The President] have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur [...]”.

16 See at www.senate.gov/artandhistory/history/common/generic/Feature_Homepage_Treaty_Versailles.htm.

17 Though in Gajzágó’s view for instance, the project that ultimately led to the establishment of the League of Nations was based originally on ‘English’ ideals. László Gajzágó, *A háború és béke joga*, Stephaneum Nyomda, Budapest, 1942, pp. 94-95.

an equal status in interpreting the relevant articles. Nevertheless, the president had lost his (Democrat) majority in the Senate as early the peace talks commenced (the ratification process requires a two-third majority in this chamber) and some Republicans did not share the ideal of the new institutionalist world order envisaged by the president.¹⁸ For this reason, the US Senate failed to ratify not only the Treaty of Versailles but the other remaining four peace treaties as well and the US later needed to conclude separate peace treaties with Germany, Austria, Hungary and Bulgaria on a bilateral basis.¹⁹

As mentioned above, these multilateral peace treaties could enter into force without ratification by the US for they only required a minimum of four states' ratification, namely three Principal and Allied Powers plus their vanquished foe. This is why, the TPT definitely entered into force on 26 July 1921²⁰ after Hungary, Belgium, Czechoslovakia, France, Japan, Great Britain, Italy, Romania, the Serb-Croat-Slovenian Kingdom and Siam had sent France their instruments of ratification and the latter made a *procès-verbal* on this development.²¹ It is interesting to know that the first signatory that ratified this treaty was Romania, whose ratification process had already been completed on 27 August 1920.²² After taking effect, the TPT's scope also extended to Greece on 15 October 1921,²³ Cuba on 21 March 1922,²⁴ while Portugal only ratified on 10 October 1923.²⁵ The last signatory that beyond doubt ratified the TPT was China who became a party on 10 October 1926.²⁶ Notwithstanding the case of the US already discussed in detail above, there remain three more signatories whose position requires some clarification. Firstly, Nicaragua signed the TPT only *ad referendum*,

18 Ignác Romsics, *A trianoni békeszerződés*, Helikon, Budapest, 2020, p. 174.

19 Since the Principal and Allies Powers concluded another treaty with Turkey instead of the Treaty of Sèvres of 1920, the US could ratify the Treaty of Lausanne of 1923.

20 *Documents Diplomatiques Français. 1921. Tome II. (1er Juillet – 31 Décembre)*. P.I.E. – Peter Lang, Bruxelles, 2005, p. 528.

21 The text of this *procès-verbal* is available at https://basedoc.diplomatie.gouv.fr/exl-php/util/documents/accede_document.php?1582787142477.

22 The text of the Romanian instrument of ratification is available at https://basedoc.diplomatie.gouv.fr/exl-php/util/documents/accede_document.php?1582787849588.

23 The *procès-verbal* that certifies the deposit of the Greek instrument of ratification is available at https://basedoc.diplomatie.gouv.fr/exl-php/util/documents/accede_document.php?1582788020419.

24 The *procès-verbal* that certifies the deposit of the Cuban instrument of ratification is available at https://basedoc.diplomatie.gouv.fr/exl-php/util/documents/accede_document.php?1582796362494.

25 The *procès-verbal* that certifies the deposit of the Portuguese instrument of ratification is available at https://basedoc.diplomatie.gouv.fr/exl-php/util/documents/accede_document.php?1582796628656.

26 The *procès-verbal* that certifies the deposit of the Chinese instrument of ratification is available at https://basedoc.diplomatie.gouv.fr/exl-php/util/documents/accede_document.php?1582796748981.

but there is no evidence they ever ratified it later.²⁷ The National Assembly of Panama approved the TPT on 20 January 1925,²⁸ but it is not clear if this had ever been communicated to the government of France.²⁹ Finally, in the case of Poland, there are conflicting views; some say this country never ratified this treaty,³⁰ while some others think it did so, but only in 1930.³¹ Evidence seems to support that Poland is not a state party to the Trianon Peace Treaty.³² In the cases of Nicaragua and Panama the lack of ratification might have caused some legal uncertainties *vis-à-vis* their relations with Hungary, for both of them declared war on Austria-Hungary on 18 May³³ and 10 December 1917,³⁴ respectively. This means, without a formal ending of hostilities, the state of war – *de iure* – might have not been terminated during the interwar period, though seemingly there was a *de facto* peace among the countries in question. Panama

- 27 The Register of International Treaties of the French MFA does not contain any *procès-verbal* that could prove Nicaragua's ratification. The author officially requested the Archives of the National Assembly of Nicaragua that they provide some information relating thereto, but they did not reply at all. Similarly, there is no evidence indicating the ratification of the treaty by Nicaragua in the Official Journal of Nicaragua either. See at <http://digesto.asamblea.gob.ni/consultas/coleccion/>.
- 28 Ley 17 de 1925. See Gaceta Oficial, Republica de Panama, Año XXII, Panamá, 7 de Abril de 1925, Número 4612. For this piece, the author is thankful to Professor Carlos Guevera-Mann who kindly let the author know of the existence of this Act of the National Assembly of Panama. However, the Register of International Treaties of the French MFA does not contain any *procès-verbal* that could prove that Panama had ever informed France about their ratification.
- 29 Though the documents on the establishment of diplomatic relations between the two countries suggest there were no such debates during this period. See e.g. Külügyminisztérium. 002657/1. VII. Területi Osztály. Érki: 1973. máj. 2. "Diplomáciai kapcsolatok létesítésére irányuló panamai kezdeményezés – Előterjesztés a Minisztertanácshoz 'Diplomáciai kapcsolat létesítése a Panamai Köztársasággal'" XIX-J-1-j, 1974/94. d. 121-113.
- 30 Gábor Hamza, 'A trianoni szerződés és Lengyelország' *Polgári Szemle*, Vol. 11, Issue 4-6, 2015; Konrad Sutarski, 'Trianon és a lengyelek', *Trianoni Szemle*, Vol. 6, Issue 1-2, 2014, p. 4. and 8. It is important to note, that some settlements that were formerly part of Árva and Szepes counties had been ceded to Poland by Czechoslovakia not under the TPT but due to a separate arrangement.
- 31 The Register of the French MFA does not contain any information on Poland's ratification process. This misunderstanding is possibly caused by the signature, and eventually ratification, of a set of agreements in 1930 by Poland that related to certain financial obligations of Hungary stemming from the TPT.
- 32 The register of international treaties of the Polish MFA does not contain any information on the ratification of the TPT, while the 1930 Paris Agreements on certain financial obligations of Hungary based on the TPT had been ratified by Poland. See at <https://traktaty.msz.gov.pl/treaty-5>.
- 33 Marvin Saballos Ramírez, 'Nicaragua y la I Guerra Mundial', *La Prensa*, 20 August 2014, at www.laprensa.com.ni/2014/08/20/opinion/208302-nicaragua-y-la-i-guerra-mundial.
- 34 Carlos Guevara Mann, 'Panamá en guerra', *La Prensa*, 15 November 2017, at www.prensa.com/opinion/Panama-guerra_0_4894760597.html.

and Hungary for instance, officially entered into diplomatic relations in 1975,³⁵ while Nicaragua and Hungary only some four years later, in 1979.³⁶ The state of war between Nicaragua and Hungary may also have come to an end after 1945 since Nicaragua declared war against Hungary on 19 December 1941,³⁷ and even though it was not a signatory to the Paris Peace Treaty of 1947, this latter agreement allowed non-signatory UN members at war with Hungary to join it by sending an instrument of accession to the Soviet Union.³⁸ At worst, if neither the Trianon Peace Treaty nor the Paris Peace Treaty of 1947 had entered into force between Hungary and Panama on the one hand, and Hungary and Nicaragua on the other, in lack of any other formal state of intention (whether unilateral/bilateral or multilateral) it could be the case that the state of war had ended between these Central-American countries and Hungary rather atypically, without concluding a formal peace treaty, by establishing diplomatic relations. Furthermore and interestingly, in Argentina the issue of ratification also arose, although this country had not been among the signatories to the TPT either and its Article 364 seems to be clear that only Principal Allied and Associated

- 35 There are slightly diverging views on when this act had exactly been performed by these countries. While Panama opines it was on 27 August 1975 when the two countries officially established diplomatic relations with each other, Hungary puts this date some days later on 4 September of the same year. See at <https://embajadadepanamaenaustria.com/2019/05/31/embajadora-de-panama-en-austria-presenta-cartas-credenciales-ante-el-presidente-de-hungria/>; György Bobvos *et al.* (eds.), *Magyar külpolitikai évkönyv 1975. A Magyar Népköztársaság külpolitikai kapcsolatai és külpolitikai tevékenysége*, Kossuth, Budapest, 1977, p. 23. It is true, the two countries signed a Joint Communiqué (*Comunicado Conjunto*) on 27 August 1975 in the Embassy of Panama in Lima. According to the Joint Communiqué of the Republic of Panama and the People's Republic of Hungary in question, the two states decided to establish diplomatic relations with each other on ambassadorial level. The Joint Communiqué entered into force on the day of its adoption. It was signed by Boris Moreno Contreras, the ambassador of Panama to Peru on the one hand and Sándor Erb, the *chargé d'affaires ad interim* of PR of Hungary to Peru on the other. See Külügyminisztérium, 003305/4. sz., Érk: 1975. okt. 14. Lima, 56, "A magyar-panamai diplomáciai kapcsolatok felvétele" XIX-J-1-j. 1975/114. d. Panama. 121-1. However, this Joint Communiqué was in fact signed only on 4 September, and thus it was (ante)dated to 27 August, the same year. See Külügyminisztérium, 003305/4. sz., Érk: 1975. okt. 14. Lima, 56. Magyar Népköztársaság Nagykövetsége, Lima, Peru. 56/sz.t./75. 1-3. XIX-J-1-j. 1975/114. d. Panama. 121-1.
- 36 It had been done on 1 October 1979. See *Magyar külpolitikai évkönyv 1979. A Magyar Népköztársaság külpolitikai kapcsolatai és külpolitikai tevékenysége*, Külügyminisztérium, Budapest, 1981, p. 28; Mónika Szenté-Varga, 'Relaciones Húngaro-Nicaragüenses en la década de los 1980', in Manuel Alcántara *et al.* (eds.), *Relaciones Internacionales. Memoria del 56.º Congreso Internacional de Americanistas*, Ediciones Universidad de Salamanca, Salamanca, 2018, p. 79.
- 37 See the relevant resolution (Aprobado el 19 de Diciembre de 1941. Publicado en La Gaceta No. 276 del 19 de Diciembre de 1941) of the National Assembly of Nicaragua in this respect at [http://legislacion.asamblea.gob.ni/normaweb.nsf/\(\\$All\)/83222ED791D704F5062572C9006957EC?OpenDocument](http://legislacion.asamblea.gob.ni/normaweb.nsf/($All)/83222ED791D704F5062572C9006957EC?OpenDocument).
- 38 See Article 41(1) and (2) of the Treaty of Peace with Hungary of 1947. For its English text see at www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0453.pdf. According to the database of the British FCO, Pakistan later joined this treaty. See at <https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=70242>.

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Powers³⁹ or Allied and Associated Powers⁴⁰ recognized in the TPT as such⁴¹ could be among the state parties to this treaty.⁴² However, five more states, not expressly mentioned in the title of the TPT are also parties to the treaty. Since Australia, Canada, India, New Zealand, and South Africa were part of the British Empire as its dominions at the time of the drafting of the treaty, the representatives of these entities had to sign the TPT along with the representative of the UK owing to the then rather complicated constitutional architecture of the British Empire.⁴³ This means that the TPT had been signed by twenty-two countries and Hungary, leaving however only nineteen parties after the failure of the ratification processes in four cases. While *stricto sensu* it is not the subject of this article, one may raise the issue whether multilateral peace treaties such as the TPT should be considered ‘*pseudo* multilateral agreements’ rather than ‘ordinary’ ones. As far as the TPT is concerned, although it is formally a multilateral agreement concluded among twenty-two countries, two separate contractual wills can be identified. On the one hand there is the will of the defeated country, in this case Hungary, to end the state of war, on the other hand there is the joint will of the other twenty-one signatories. Even though the TPT is formally a multilateral agreement, the will of its signatories was not formulated in a parallel way, but the will of the victorious powers had been elaborated first, which was met only subsequently with the will, or rather deference of their vanquished foe. That is why TPT-like international agreements could be considered ‘*pseudo* multilateral’ in nature, and certainly this approach is only entirely true if one does not wish to acknowledge the unequal quality of these types of treaties,⁴⁴ underlining their fairly unilateral character which suggest that such agreements were much rather a joint unilateral declaration rather than a treaty.

As far as the entry into force of the TPT is concerned, another widespread misconception of many Hungarians is that the TPT “had been concluded for a definite period and according to its relevant provisions or at least a secret annex attached thereto, it automatically expires after a certain period of time (25/50/70/80/100 years)”,⁴⁵ on 26 July 2021 the latest. Certainly, there are neither provisions to this effect, nor any secret annexes that would substantiate this view. The TPT, just like the majority of international treaties had been concluded for an indefinite period of time. Ablonczy suggests⁴⁶ that this

39 These were the US, the British Empire, France, Italy and Japan.

40 This term included Belgium, China, Cuba, Greece, Nicaragua, Panama, Poland, Portugal, Romania, the Serb-Croat-Slovene State, Siam and Czecho-Slovakia.

41 *De facto* the signatories to the TPT.

42 See Article 364 of the Treaty of Trianon in this respect.

43 See in detail A. V. Dicey, *Introduction to the Study of the Law of the Constitution*, Eighth edition, Macmillan, London, 1915, pp. 45-61.

44 Of the inequality and imposed nature of such treaties see Romain Le Boëuf, *Le traité de paix. Contribution à l'étude juridique du règlement conventionnel des différends internationaux*, Pedone, Paris, 2018, pp. 289-463.

45 On this misconception see Balázs Ablonczy, *Trianon-legendák*, Jaffa, Budapest, 2010, p. 128.

46 *Id.* pp. 128-129.

misconception may have been based on the misinterpretation of the TPT's (and at the same time the League of Nations' Covenant's) Article 19 according to which

“The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.”

However, in practice, this provision was largely inapplicable to the Treaty of Trianon.⁴⁷

2. The Trianon Peace Treaty and Its Relationship to Some Other International Agreements

Some political actors in Hungary are of the view, the act that had promulgated the TPT in Hungarian legislation should be repealed, for the TPT itself is not yet in force, since several international agreements amended⁴⁸ it during the past century.⁴⁹ In addition, there are some who are of the opinion that the Paris Peace Treaty of 1947 concluded between the Allied and Associated Powers after World War II had already repealed the Trianon Peace Treaty⁵⁰ and for these reasons the promulgating act should be repealed.⁵¹

Firstly, I will analyze the point regarding the treaties that had amended the TPT. The Trianon Peace Treaty does not contain general provisions on its amendment. However, in some of its parts there are special provisions in this respect. For instance, the Covenant of the League of Nations which formed Part I. of the TPT and at the same time also appeared in each of the major peace treaties following World War I with the same wording, established the possibility under Article 26 to amend its provisions. In accordance with the relevant rules, an amendment to the Covenant could only take effect if each of the members in the Council and the majority of the members in the Assembly had ratified it in line with their respective constitutional rules. Rather convincingly, the Covenant sanctioned dissent from the majority opinion with loss of membership in the

47 Some Hungarian authors thought this could have been the legal basis for revising the Treaty of Trianon. See Albert Irk, *A Nemzetek Szövetsége*, Pécs, 1926, pp. 111-112; Albert Irk, *Bevezetés az új nemzetközi jogba*, Pécs, 1929, pp. 159-160; Ferenc Faluhelyi, *Államközi jog I. Államközi alkotmányjog és jogtan*, Pécs, 1936, pp. 274-275. László Buza was of a different view. He thought Article 19 could better serve the purpose of either revising or terminating the TPT than Article 19. László Buza, *A revízió nemzetközi jogi alapjai*, Budapest, 1933, p. 27.

48 The author does not use 'amendment' and 'modification' in this article as scholarly literature does in light of the Vienna Convention on the Law of Treaties of 1969 (VCLT), but as synonyms.

49 See at <https://www.erdely.ma/hatalyon-kivul-helyezne-trianon-ratifikaciojat-a-mi-hazank/>.

50 Ablonczy 2010, p. 129; Romsics 2020, p. 187; Ferenc A. Szabó, 'Párizs fölülírta Trianont' *Magyar Hírlap*, Vol. 40, Issue 35, 2007, p. 17.

51 See at <https://hungarytoday.hu/mi-hazank-horthy-commemoration/>.

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League of Nations.⁵² In addition, Article 60 (in part III) declared that the provisions related to the protection of persons belonging to racial, religious or linguistic minorities (Articles 54-59 in Section II of Part III) cannot not be modified “without the assent of a majority of the Council of the League of Nations.” Taking a somewhat different stance and in relation to the issue of reparation (Part VIII), the relevant rules of the TPT allowed for the modification of Annex 2 of Part VIII (without amending the text of TPT) in case of a unanimous decision of the governments represented from time to time in the Reparation Commission.⁵³ Article 306 of the TPT, declaring the right of the Czech-Slovak Railways to run its trains through Hungary towards the Adriatic Sea, simply allowed for the modification of the route of the railway companies concerned under the agreement. Similarly, Article 310 allowed the two countries mentioned above to amend the text of this article on telegraphs and telephones through their joint agreement. Owing to these special provisions, some scholars came to the conclusion that the TPT could not be amended, except its aforesaid articles.⁵⁴ László Buza took a different view, claiming that there were no rules either in the peace treaties or some other parts of statutory international law, based on which certain alterable or non-alterable provisions of the TPT could be distinguished from each other.⁵⁵ It is also true that around the period of concluding the TPT, customary rules on international treaties allowed for the amendment of an agreement without specific provisions governing this matter in case each state party approved the treaty of amendment; this is also in line with the current practice.⁵⁶ While contemporary international treaty rules on treaty-making⁵⁷ are more or less irrelevant here due to the principle of non-retroactivity, these nevertheless support a similar view, namely that parties to a given agreement – being the ‘masters of the treaty’ – may jointly amend its provisions by way of an other treaty.⁵⁸ The 1969 Vienna Convention on the Law of Treaties (VCLT) refers to this principle as the “general rule regarding the amendment of treaties”, which follows the expressly mentioned possibilities of modifying certain parts or provisions of the TPT. This principle stands in a *lex specialis-lex generalis* relationship with the general rule of amending treaties

52 See Article 26 of the Covenant of the League of Nations. The text of the Covenant had been amended a couple of times, see in this respect <https://history.state.gov/historicaldocuments/frus1919Parisv13/ch10subch1>.

53 See Article 22 of Annex 2. of Part VIII of the Treaty of Trianon.

54 Buza 1933, p. 7.

55 Id.

56 See contemporary views on the difference between amendment and modification of international treaties, based mainly on Articles 40-41 VCLT. See James Crawford, *Brownlie's Principles of Public International Law*, Eighth Edition, Oxford University Press, Oxford, 2012, p. 386. Malgosia Fitzmaurice & Panos Merkouris, ‘Uniformity versus specialization (1): The Quest for A Uniform Law of Inter-State Treaties’, in Christian J. Tams *et al.* (eds.), *Research Handbook on the Law of Treaties*, Edward Elgar, Cheltenham, 2014, pp. 359-361; Mark E. Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties*, Martinus Nijhoff Publishers, Leiden-Boston, 2009, pp. 517-538.

57 Based mainly on the provisions of the VCLT.

58 See Article 39 VCLT of 1969 in this respect.

recognized by customary international law at the time. Nevertheless, this general rule also provides some room for making occasional alterations *inter partes*.⁵⁹ While the 1921 bilateral peace treaty between the US and Hungary was not an agreement of this kind – since the US had not become a party to the TPT⁶⁰ – the Venice Protocol of 1921 concluded between Hungary and Austria eventually led to a situation that modified the provisions of the TPT on the state boundary between the two countries in question.⁶¹ The Venice Protocol allowed for the holding of a plebiscite on whether the city of Sopron and eight other villages in its vicinity wished to remain under the sovereignty of Hungary, although the TPT had originally provided that this area becomes part of Austria.⁶² As a result of the plebiscite held between 14 and 16 December 1921, the electorate of the Sopron region voted for remaining in Hungary and as a result, the provisions of the TPT on the border between Hungary and Austria changed.⁶³ The Hungarian administration – after some years of public discourse – started to follow the politics of revisionism aimed at peacefully revising the provisions of the TPT concerning the state borders.⁶⁴

It is the view of many Hungarians that the Paris Peace Treaty of 1947 that had ended the state of war between the Allied and Associated Powers on the one hand and Hungary on the other hand after World War II, repealed the Trianon Peace Treaty. Yet, the 1947 Paris Peace Treaty⁶⁵ does not contain any express provisions on the TPT, for it had ended a war different from World War I, and for this simple reason the circle of the parties to these two treaties are not entirely the same. The USSR, Belarus, the Ukraine were not among the signatories of the TPT, while Japan, Italy, Belgium, China, Cuba, Greece, Nicaragua, Panama, Poland, Portugal, Romania and Siam (Thailand) did not sign the Paris Peace Treaty. Although the Paris Peace Treaty of 1947 could subsequently be ratified by any non-signatory, but otherwise belligerent members of the UN, the TPT did not provide for a similar a possibility.⁶⁶ The 1947 Paris Peace Treaty created new

59 Manfred Lachs, *A többoldalú nemzetközi szerződések*, Közgazdasági és Jogi Könyvkiadó, Budapest, 1962, p. 224.

60 Though by means of the said bilateral peace treaty, aka. 'A Treaty between the United States and Hungary, signed August 29, 1921, to establish securely friendly relations between the two Nations the US and Hungary' state parties referred directly to the majority of the provisions of the TPT as being applied between them. For the text of this peace treaty see wwi.lib.byu.edu/index.php/US_Peace_Treaty_with_Hungary.

61 Austria is not a party to the TPT either. Nevertheless, both countries (Hungary and Austria) were forced to recognize their new borders as established under the peace treaties. See Article 89 of the Treaty of Saint-Germain-en-Laye of 1919 and Article 71 of the Trianon Peace Treaty.

62 For the text of the 1924 Protocol of Venice in French and in German see *Bundesgesetzblatt für die Republik Österreich*. Jahrgang 1922, Ausgegeben am 15 März 1922. 34. Stück. pp. 269-273, at <http://alex.onb.ac.at/cgi-content/alex?aid=bg&datum=1922&page=333&size=45>.

63 Ferenc Faluhelyi, *Magyarország békeszerződései*, Pécs, 1923, pp. 27-29.

64 On the 'politics of revision' see Miklós Zeidler, *A revíziós gondolat*, Osiris, Budapest, 2001, pp. 125-158.

65 There had been some other peace agreements concluded in Paris, dubbed as 'Paris Peace Treaties' with other defeated countries as the Paris Peace Treaty with Italy, the Paris Peace Treaty with Finland, the Paris Peace Treaty with Romania, and the Paris Peace Treaty with Bulgaria.

66 See Article 41 of the Paris Peace Treaty of 1947 concluded with Hungary in this respect.

realities between Hungary and certain state parties to the TPT. This was the case because the countries in question declared war against each other during the period between 1941 and 1945 and by doing so, the state of peace, constructed by the TPT between them had ceased to exist. A new peace treaty thus became necessary to re-establish peace between Hungary on the one hand and Great Britain, Australia, New Zealand, Canada, the Union of South Africa, Nicaragua and Romania⁶⁷ on the other hand as belligerent state parties to the TPT. But this simple fact did not terminate the TPT in its entirety between the state parties enumerated above. Meanwhile, it is true that the state of peace between Hungary and Great Britain, Australia, New Zealand, Canada the Union of South Africa and Nicaragua is not based on the TPT, but the Paris Peace Treaty of 1947 instead. Furthermore, the 'peace-making function of the bilateral treaty between the US and Hungary had not lapsed either, for it is now the Paris Peace Treaty of 1947 by way of which the state of war ceased to exist between the two countries in question. On the other hand, this also means that the Trianon Peace Treaty remains the basis of the state of peace between Hungary and the non-belligerent state parties to it. This situation extends to Hungary's relations with only a handful of countries like Italy, Japan, Portugal and Thailand (Siam), for some state parties to the TPT had not become belligerents by issuing a formal declaration of war, but by signing the Declaration of the United Nations of 1942.⁶⁸ The Paris Peace Treaty of 1947 can be considered as a successive treaty *inter se* among some of the signatories to the Trianon Peace Treaty and it follows that articles of the TPT apply among those concerned to the extent not compatible with the later treaty only.⁶⁹ This rule is the manifestation of the *lex posterior* principle.⁷⁰ It follows, that the Paris Peace Treaty of 1947 has some relevance when analyzing the provisions of the TPT from the perspective of their temporal scope: two separate groups of states parties to the TPT must be distinguished in the next subparagraph of this article. One of them will cover states that are parties to both peace treaties, while the other circle includes those who signed and ratified only the Trianon Peace Treaty. Of course, the Paris Peace Treaty of 1947 is not the only successive international agreement *inter se* to the TPT, although beyond doubt it is the most relevant one. *E.g.* Hungary and its neighbors concluded a large number of bilateral treaties on different aspects of

67 For the list of declarations of war in World War II see at <http://worldatwar.net/timeline/other/diplomacy39-45.html>.

68 For the complete list of signatories see Yearbook of the United Nations 1946-1947. Part 1: The United Nations. Section 1: Origin and Evolution. Chapter A: The Declaration by United Nations, pp 1-2, at www.unmultimedia.org/searchers/yearbook/page.jsp?volume=1946-47&page=38&searchType=advanced. One should also note Károly Nagy disagreed that by merely signing the Declaration of the United Nations without formally declaring war, countries could have been in a state of war with each other. Károly Nagy, *A nemzetközi jog valamint Magyarország külkapcsolatainak története*, Lakitelek, 1995, pp. 78-79.

69 See the rule in Article 30(4)(a) VCLT of 1969 in this respect.

70 Jasper Finke, 'Regime-Collisions: Tensions Between Treaties (And How to Solve Them)', in Tams *et al.* (eds.) 2014, pp. 427-428.

their borders during the past one hundred years.⁷¹ Moreover, some other (both multilateral and bilateral) treaties⁷² had also amended the TPT since its adoption in its effect among its various signatories. Finally, World War II did not terminate the TPT because for several reasons. During the 19th century⁷³ and especially by the first decades of the 1900s, norms governing international treaties had greatly evolved and owing to the proliferation of multilateral international agreements, interstate armed conflicts did not automatically terminate existing treaties,⁷⁴ especially those establishing universal international organizations⁷⁵ such as the League of Nations. International law course books from around the time of World War I shared this view by adding that even the suspension of certain kind of treaties was inconceivable between belligerents.⁷⁶ This opinion was confirmed by an Award of the Permanent Court of Arbitration in a case between the US and the UK.⁷⁷ Moreover, regime-building elements of international law, such as the Trianon Peace Treaty were not automatically cancelled by an armed conflict following World War I.⁷⁸ According to Faluhelyi, there was a ‘presumption of existence’ during the interwar period regarding the temporal effect of international treaties that stemmed directly from *pacta sunt servanda*.⁷⁹ According to this presumption, every international treaty was to be treated as

71 From among the most recent examples see the Amsterdam Treaty on the state border between the Republic of Slovakia and Hungary of 2016.

72 See e.g. the *Traité entre l'Italie, la Pologne, la Roumanie, l'État serbe-croate-slovène et la Tchécoslovaquie relatif aux relations entre ces États suite à la dissolution de l'Empire austro-hongrois* of 1920 or the *Traité entre les États-Unis, l'Empire britannique, la France, l'Italie, le Japon, d'une part, et la Pologne, la Roumanie, l'État Serbe-Croate-Slovène et l'État Tchécoslovaque d'autre part, relatif aux frontières de ces États* of 1920 or the *Convention approuvant le règlement relatif aux attributions et au fonctionnement de la commission technique permanente du régime des eaux du Danube* of 1923.

73 Johann Caspar Bluntschli, *Das Moderne Völkerrecht der Civilisirten Staten als Rechtsbuch dargestellt*, Verlag der C.H. Beck'schen Buchhandlung, Nördlingen, 1878, p. 302. Some decades ago the vast majority of authors thought until the end of the 19th century that international agreements ceased to exist or were at least suspended between countries at war with each other. See e.g. Henry Wheaton, *Elements of International Law, Sixth Edition*, Little, Brown and Company, Boston, 1855, pp. 342-343.

74 Michael Akehurst, ‘Treaties, Termination’, in Rudolf Bernhardt (editor-in-chief), *Encyclopedia of Public International Law*, Vol. 7, North-Holland Amsterdam-New York-Oxford, 1984, p. 509; T.J. Lawrence, *The Principles of International Law*, Fourth Edition, D.C. Heath & Co. Publishers, Boston & New York & Chicago, 1910, pp. 360-362; Irk 1929, p. 162; Faluhelyi 1936, p. 272; Lachs 1962, pp. 239-240.

75 Anikó Szalai, ‘Nemzetközi szerződések’, in András Jakab & Balázs Fekete (eds.), *Internetes Jogtudományi Enciklopédia*, at <http://ijoten.hu/szocikk/nemzetkozi-szerzodesek> (2018), p. 76.

76 See e.g. George B. Davies, *The Elements of International Law*, Harper & Brothers Publishers, New York and London, 1908, pp. 239-240.

77 “International law in its modern development recognizes that a great number of Treaty obligations are not annulled by war, but at most suspended by it [...]” Permanent Court of Arbitration, North Atlantic Coast Fisheries Tribunal of Arbitration constituted under a Special Agreement signed at Washington, January 27th, 1909, between the US and Great Britain, The Hague, 1910, p. 9.

78 See in this respect: Yaël Ronen, ‘Treaties and Armed Conflict’, in Tams *et al.* (eds.) 2014, pp. 542-547.

79 Faluhelyi 1936, p. 271.

having its full temporal effect unless the state parties expressly terminated it.⁸⁰ In essence, this approach was shared by the drafters of the Paris Peace Treaties following World War II⁸¹ as well as the Member States of the League of Nations. The 'Allied and Associated Powers' found it unnecessary to include a similar provision into the text of these peace treaties, since the war had only suspended the effect of multilateral treaties without terminating them.⁸² Similarly, Japan made a declaration when signing the San Francisco Peace Treaty of 1951 in which it recognized the scope of all multilateral treaties that it had been a party to on 1 September 1939.⁸³

3. Partial Temporal Effect – Parts of the TPT (Treaty Obligations) Currently in Force

Now, it is time to study the Trianon Peace Treaty itself from the point of view of its current applicability in terms of temporal effect. The TPT is composed of fourteen, rather heterogeneous separate parts. 'Part I' as in the case of other major peace treaties drafted during the Paris Peace Talks of 1919-1920, contained the Covenant of the League of Nations and this structural unit is beyond doubt not in force anymore. It was on 18 April 1946 when the Assembly of the League of Nations adopted a resolution that dissolved the organization,⁸⁴ and *ipso facto* the Covenant had lost its applicability.

'Part of II' of the Trianon Peace Treaty relates to the 'Frontiers of Hungary', constituting the most important and farthest reaching unit of this agreement in both political and legal terms. Article 27, the very first provision in this Part, determines the borders between Hungary and its neighbors. While not having been revised entirely, the provisions within Article 27 have been amended several times *inter se* during the past decades. Firstly, the border between Austria and Hungary was modified due to the plebiscite made possible under the Venice Protocol of 1921. In addition, some other villages had switched to Austria and Hungary, respectively, following the plebiscite of Sopron based on the decisions of the Austrian-Hungarian Boundary Commission⁸⁵ and approved later by the Council of the League of Nations.⁸⁶ It is worth noting that the border between Austria and Hungary had already been stipulated by Article 27(5) of the Treaty of Saint-Germain-en-Laye of 1919, the peace agreement concluded with Austria, well before the Trianon Peace Treaty had been signed. These measures not only modified the boundary between Austria and Hungary as established by the TPT

80 Id.

81 Anikó Szalai, 'Effect of the World Wars on International Treaties of Hungary', *Miskolc Journal of International Law*, Vol. 5, Issue 2, 2008, p. 101.

82 Lachs 1962, p. 238.

83 Id.

84 LN Doc. No. A.32.(I). 1946 X. p. 12-16. Resolution for the Dissolution of the League of Nations, Adopted by the Assembly on April 18, 1946.

85 Romsics 2020, p. 179.

86 Id.; Imre Tóth, *A nyugat-magyarországi kérdés 1922-1939. Diplomácia és helyi politika a két háború között*, Győr-Moson-Sopron Megye Soproni Levéltára, Sopron, 2006, p. 56.

but they amended the Treaty of Saint-Germain-en-Laye as well. The Paris Peace Treaty of 1947 did not modify the border between Austria and Hungary.⁸⁷ The Hungarian-Czechoslovak (today Slovak) boundary was modified three times (not including the number of technical alterations)⁸⁸ after the TPT entered into force. On the one hand, the Hungarian-Czechoslovak Boundary Commission made minor changes in the vicinity of Salgótarján,⁸⁹ approved subsequently by the Council of the League of Nations in 1923.⁹⁰ In addition, the Paris Peace Treaty of 1947 also amended the border between Hungary and Czechoslovakia. On the one hand, Hungary was forced to cede three of its villages situated on the so-called Bratislava (Pozsony)-bridgehead to Czechoslovakia⁹¹ while on the other hand, (Czecho)slovakia was forced to cede a significant portion of its interwar territory to the USSR.⁹² This area, known both as Ruthenia or Subcarpathia/Transcarpathia⁹³ belongs to the Ukraine today, as a result of the state succession of this country in the Paris Peace Treaty of 1947. The Czechoslovak-Hungarian border otherwise remained unchanged.⁹⁴ So did the border between Romania and Hungary, and this is the only state boundary established by the Trianon Peace Treaty that remained intact throughout the following decades. Neither the Hungarian-Romanian Boundary Commission,⁹⁵ nor the Paris Peace Treaty of 1947 made any modifications to it,⁹⁶ with the latter restoring the boundary to its 1 January 1938 conditions.⁹⁷ Finally, the border shared by Hungary and the Kingdom of Serbians, Croats, and Slovenians (from 1929: Yugoslavia) was not changed by the (mixed) Boundary Commission either. However, a small village called Szomoróc (today a part of Kercaszomor) had opted for Hungary following a

87 See Article 1(1) of the Treaty of Peace with Hungary of 1947.

88 See Pozsony/Bratislava Treaty between Hungary and Slovakia on altering the state border due to controlling the border-rivers of Ipoly, Sajó and Ronyva within the water management of 1997.

89 Two villages, Somoskő and Somoskőújfalu decided to be a part of Hungary instead of Czechoslovakia. Romsics 2020, p. 180.

90 János Suba, 'Egy határmegállapító bizottság anatómiája: A magyar-csehszlovák határmegállapító bizottság szervezete 1921-1925', in Cecília Pásztor (ed.), ... *ahol a határ elvált. Trianon és következményei a Kárpát-medencében*, Nógrád Megyei Levéltár, Balassagyarmat-Várpalota, 2002, pp. 238-239.

91 See Article 1(4)(c) of the Treaty of Peace with Hungary of 1947 and Ignác Romsics, *Az 1947-es párizsi békeszerződés*, Osiris, Budapest, 2006, pp. 212-223; Mihály Fülöp, *A befejezetlen béke. A Külügyminiszterek Tanácsa és a magyar békeszerződés*, Második, bővített kiadás, Püski, Budapest, 2008, pp. 247-276.

92 See Article 1(4)(c) of the Treaty of Peace with Hungary of 1947; Fülöp 2008, pp. 61-64.

93 Ernő Flachbarth, *Ruszsínszék autonómiaja. A nemzetközi és a csehszlovák alkotmányjog szempontjából*, Miskolc, 1934, p. 7.

94 See Article 1(3) of the Treaty of Peace with Hungary of 1947.

95 Romsics 2020, p. 179; Antal Ullein-Reviczky, *A Trianoni Szerződés területi rendelkezéseinek jogi természete*, Pécs, 1943, pp. 201-205.

96 Fülöp 2008, pp. 237-247.

97 See Article 1(2) of the Treaty of Peace with Hungary of 1947; János Kiss, 'A szárazfölddel körülzárt államok tengerjogi helyzetének szabályozása', *Jogtudományi Közlöny*, 1960/11, p. 636.

brief military resistance⁹⁸ and the Boundary Commission approved this move.⁹⁹ The Paris Peace Treaty of 1947 made no changes to the border between Yugoslavia and Hungary.¹⁰⁰ The only thing worth mentioning in this respect is the breakup of Yugoslavia in the 1990s, giving rise to the gradual emergence of three successor states (Slovenia, Croatia and Serbia), which became eventually neighbors to Hungary along the former Yugoslav border determined by the Trianon Peace Treaty. This is because according to the 1978 Vienna Convention on Succession of States in respect of Treaties state succession does not affect boundaries established by a treaty.¹⁰¹

During the interwar period, several acts amended the state boundaries of Hungary established by the Trianon Peace Treaty. Two Vienna Arbitration Awards¹⁰² modified the Hungarian-Czechoslovak and the Hungarian-Romanian borders, respectively. In addition, Hungary occupied and eventually annexed some of its former territories ceded to Czechoslovakia¹⁰³ and Yugoslavia¹⁰⁴ in 1920. These actions were all carried out as part of the government's official 'policy of revision'. However, the Armistice Agreement of 1945 signed by Hungary and the three Allied Powers in Moscow declared the two Vienna Arbitration Awards to be null and void.¹⁰⁵ Furthermore, Hungary was obliged to "repeal all legislative and administrative provisions relating to the annexation or incorporation into Hungary of Czechoslovak, Yugoslav and Rumanian territory" and also to "evacuate all Hungarian troops and officials" from these territories "within the limits of the frontiers of Hungary existing on December 31, 1937."¹⁰⁶ The Paris Peace Treaty of 1947 affirmed these provisions.¹⁰⁷

98 No. 838. "The Minister of Yugoslavia in Budapest, Mr. Milojević to the Minister for Foreign Affairs, Count Emeric Csáky, Pov, No, 952, Budapest, le 1er Décembre, 1920, in Francis Deák & Dezső Újváry (eds.), *Papers and Documents Relating to the Foreign Relations of Hungary. Volume I. 1919-1920*, Royal Hungarian Ministry for Foreign Affairs, Budapest, 1939, pp. 797-798.

99 See at <https://kercaszomor.hu/a-legbatrabb-falu/communitas-fortissima>. Though the Boundary Commission also proposed to give the region of Muravidék/Prekmurje back to Hungary. Ullein-Reviczky 1943, pp. 200-201.

100 See Article 1(1) of the Treaty of Peace with Hungary of 1947.

101 Id. Article 11(a). Each neighbor of Hungary affected by state succession is a party to this convention. However, as in the case of Slovakia, a minor alteration took place between Slovenia and Hungary due to the change of waterbed of a border creek. See *Brdo pri Kranju Treaty* between Hungary and Slovenia on the alteration of state border due to the control of the Lendva creek within a project of water management of 2016.

102 Arbitral award establishing the Czechoslovak-Hungarian boundary, Decision of 2 November 1938. For its text in English see at https://legal.un.org/riaa/cases/vol_XXVIII/401-406.pdf; Award relating to the Territory ceded by Romania to Hungary Decision of 30 August 1940. For its text in English see at https://legal.un.org/riaa/cases/vol_XXVIII/407-412.pdf.

103 See the issue of Kárpátalja/Subcarpathia/Ruszinszék/Ruthenia in 1939. Raphaël Lemkin, *Axis Rule in Occupied Europe*, Carnegie Endowment for International Peace, Washington, 1944, p. 151.

104 See the case of Muraköz/Medimurje, Baranya/Baranja-triangle and Vajdaság/Vojvodina in 1941. Id. p. 262.

105 See Article 19 of the Agreement concerning an Armistice between the USSR, the UK, and the US on the one hand and Hungary on the other.

106 See Article 2 of the Agreement concerning an Armistice between the USSR, the UK, and the US on the one hand and Hungary on the other.

107 See Article 1 of the Treaty of Peace with Hungary of 1947.

The remaining articles of this Part either deal with the work of the Boundary Commissions or are otherwise technical in nature. As a matter of fact, articles relating to the former are not in force any more for they had already been fulfilled. Other technical provisions, including the well-established rule of giving priority to the text of the treaty *vis-à-vis* the map annexed thereto in case of possible deviations,¹⁰⁸ and those touching on the issue of trigonometrical points, signals, posts, frontier marks and pillars, the obligation to safeguard them as well as to make them intervisible with numbers,¹⁰⁹ remained in force. It is further important to note that several bilateral agreements have been concluded between Hungary and its neighbors during the last 100 years which expressly refer to the TPT and particularly its provisions on state boundaries, as the basis for the regulation on the borders between them.¹¹⁰

Part III of the TPT ('Political clauses for Europe') mainly represents treaty-contract (*traité-contrat*)-like, and thus not law-making provisions. From among the articles in Sections I to V¹¹¹ only those are in force now by way which Hungary had renounced all rights concerning certain territories.¹¹² The other provisions in these Sections lost their legal effect either because they had been fulfilled a long time ago¹¹³ or due to the principle of *clausula rebus sic stantibus*.¹¹⁴ As far as Section VI is concerned, which conferred certain obligations on Hungary to respect the rights of minorities living in its territory, this is considered to be no longer in force. A 1950 study¹¹⁵ on the request of the UN Economic and Social Council found the articles of this Section were not in force due to *clausula rebus sic stantibus*. The League of Nations as the guarantor of these rights¹¹⁶ had been

108 See Article 28 of the Trianon Peace Treaty.

109 See Articles 33-34 of the Trianon Peace Treaty.

110 See Article 1(1) of the Budapest Treaty between Austria and Hungary on ensuring the visibility of their common border and issues adjacent thereto of 1964; Article 3(1) of the Budapest Convention between Hungary and Romania on the order of state borders and mutual assistance and cooperation in matters of state borders of 1983; Article 1(1) of the Belgrade Convention between Hungary and Yugoslavia on the renovation, marking and maintenance of border marks along their common border of 1983; Article 1(1) of the Újvidék Agreement among Hungary, Romania and Serbia-Montenegro on their tri-border area and the tripoint marking it as well as their maintenance of 2006. The only neighboring state to Hungary is Ukraine with which the bilateral agreement cannot refer to the Trianon Peace Treaty, but rather the Paris Peace Treaty of 1947 due to well-known historical reasons. See Article 2(1) of the Treaty between Hungary and the Ukraine on the order of state borders and their mutual cooperation and assistance in state border matters of 1995.

111 These sections deal with issues relating to Italy, the Serb-Croat-Slovene State, Roumania (*sic*), the Czecho-Slovak State and Fiume, respectively.

112 See Articles 42, 45, 49, and 53 in this respect.

113 See articles dealing with the status of the Palazzo Venezia or those concerning the issue of certain Italian wagons.

114 E.g. articles creating obligations to recognize the independence of non-existing states.

115 For an in-depth analysis on this study see Erzsébet Szalayné Sándor, *A kisebbségvédelem nemzetközi jogi intézményrendszere a 20. században*, MTA Kisebbségkutató Intézet & Gondolat Kiadói Kör, Budapest, 2003, pp. 150-170. However, as Kovács points out, some states occasionally refer to certain elements of the 'League's minority protection system' even after the Cold war. Péter Kovács, *Nemzetközi közjog*, Osiris, Budapest, 2016, pp. 389-390.

116 See Article 60 of the Trianon Peace Treaty.

dissolved in 1946 and the UN Charter recognized the principle of non-discrimination and human rights.¹¹⁷ Although the war had only suspended the applicability of the TPT between the belligerents, Allied Powers decided not to include any reference to the rights of minorities for they intended to replace these with a different concept of human rights.¹¹⁸ The articles of Section VII ('Clauses relating to nationality') had also been fulfilled, while some of those in Section VIII ('Political clauses relating to certain European States') have relevance even today. The recognition¹¹⁹ of the abandonment of both Belgium's and Luxemburg's neutrality¹²⁰ allowed them to become members of NATO after World War II. The articles on the post-war status of Turkey and Bulgaria,¹²¹ in particular, Hungary's related rights and the renunciation of all rights over territories ceded to Austria (albeit amended)¹²² are also among the provisions that continue to have legal relevance today. By contrast, the articles on Schleswig¹²³ and Russia¹²⁴ have either been fulfilled or lack legal force due to *clausula rebus sic stantibus*, respectively. The rules in Section IX ('General Provisions') to confirm the territorial changes of Austria-Hungary¹²⁵ and recognize the validity of the other major peace treaties elaborated after World War I¹²⁶ also remain in effect. Finally, there are some provisions that are no longer in force, such as the one declaring "the independence of Hungary is inalienable otherwise than with the consent of the Council of the League of Nations."¹²⁷ which lapsed owing to *clausula rebus sic stantibus*.¹²⁸

Part IV ('Hungarian interests outside Europe') is no longer in force partly due to *clausula rebus sic stantibus* (Morocco and Egypt eventually emerged as sovereign and independent states and Hungary has become a Member State of the EU¹²⁹) and the fulfilment of obligations [Hungary's obligations regarding Siam (Thailand) and China].¹³⁰

The majority of articles in Part V ('Military, naval and air clauses') and Part VI ('Prisoners of war and graves') are no longer in force. Part V lost its legal effect in

117 See Chapter XI. Paragraph A Points 1-2 of the Study on the legal validity of the undertakings concerning minorities. E/CN.4/367. 7 April 1950, pp. 52-54.

118 Id. p. 19.

119 It is certainly not only the TPT that has relevance in this respect.

120 See Articles 67-68 of the Trianon Peace Treaty.

121 See Article 70 of the Trianon Peace Treaty.

122 See Article 71(1) of the Trianon Peace Treaty in this respect.

123 See Article 69 of the Trianon Peace Treaty.

124 See Article 72 of the Trianon Peace Treaty.

125 See Articles 74-75 of the Trianon Peace Treaty.

126 Id.

127 See Article 73 of the Trianon Peace Treaty.

128 Article 78 of the Trianon Peace Treaty also falls within this category. However, Article 77 contains an obligation that may have some legal relevance even today. In line with this provision, Hungary and its neighbors should provide information from their archives through bilateral channels under certain circumstances.

129 This is especially important with regard to Articles 85 and 93 that provided the same prerogatives for goods originating from Morocco and Egypt as those coming from France or the Great Britain, respectively when entering to Hungary.

130 See Section III to IV. of Part IV. of the Trianon Peace Treaty.

its entirety due to *clausula rebus sic stantibus*, because it was one of the building blocks of the interwar era's disarmament efforts¹³¹ and its chief guarantor, the League of Nations ceased to exist in 1946 (see *supra*). Moreover, Hungary was bound to fulfill new obligations under the Paris Peace Treaty of 1947 regarding its military capacities. In Part VI, however, there are some articles worth analyzing to determine whether they are still effective or not. Certainly, the provisions governing the status of prisoners of war (Section I) have already been fulfilled long ago, but those dealing with graves may still have some significance (Section II). Accordingly, two articles in this section oblige state parties to the TPT to respect and maintain the graves of the soldiers, sailors, POWs, and interned civilians buried in their respective territories.¹³² Furthermore, they support each other in fulfilling every request for transferring the remains of dead soldiers,¹³³ and in case of reciprocity, they provide information on people buried in graves with or without identification.¹³⁴ These provisions are rather significant between state parties which have no bilateral agreements on war graves and cemeteries, since bilateral instruments concluded since then are usually in a *lex specialis* and *lex posterior* relationship to the TPT. From among the interested states, Hungary currently has no bilateral agreements of this kind with the US, the UK, India, the South African Republic, Australia, Canada, France, Japan, Belgium, China, Cuba, Greece, Nicaragua, Panama, Portugal, Serbia, and Thailand.¹³⁵

Part VII ('Penalties') referred to the criminal responsibility of certain war criminals and is therefore no longer in force.¹³⁶ Similarly, articles in Part VIII ('Reparation') had also been fulfilled.¹³⁷ So were the provisions of Part IX ('Financial Clauses'), as well as the articles of Part X ('Economic Clauses'). In addition, this latter part is also outdated due to certain developments in international economic cooperation after World War II, such as the WTO-regime or the European integration process and for these reasons it also falls within the category of *clausula rebus sic stantibus*.¹³⁸

Part XI ('Aerial Navigation') remained in force only until Hungary was a Member State of the League of Nations or 1 January 1923 the latest.¹³⁹ Since

131 Ferenc Faluhelyi, *Leszerelés*, Pécs, 1932, pp. 4-5.

132 See Articles 155-156 of the Trianon Peace Treaty.

133 Id.

134 See Article 156 (1)-(2) of the Trianon Peace Treaty.

135 See at <http://hadisir.hu/segedanyagok/kapcsolodo-jogszabalyok>.

136 There is no evidence these provisions had ever been invoked by the Allied and Associated Powers.

137 Although due by 1944 and postponed until 1966, Hungary had terminated unilaterally the payments under this part of the TPT in 1932 after Germany's similar obligations had been cancelled because of the Great Depression. Nagy 1995, p. 162.

138 With some state parties Hungary concluded a treaty on a bilateral basis on certain aspects of Part X. of the Trianon Peace Treaty. In Article 7 of the "Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Hungarian Government Relating to the Settlement of Financial Matters of 1956" the two countries agreed that – among other things – they consider Articles 231 and 232 of the TPT to be no longer in force between them. See at <https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=65709>.

139 See Article 267 of the Trianon Peace Treaty.

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Hungary had been admitted to the League by the Assembly on 18 September 1922,¹⁴⁰ Part XI was automatically repealed from the TPT the same day. Part XII ('Ports, waterways and railways') is also a unit of the TPT that lost its legal effects, in particular after the World War II due to – among others – the establishment of a new regime for the river Danube,¹⁴¹ the process of European integration, and more importantly, the dissolution of the League of Nations that helped enforce the rules laid down in this Part.¹⁴² All these circumstances lead us to the conclusion that this Part has lapsed due to *clausula rebus sic stantibus*.¹⁴³

Part XIII ('Labour') is the founding treaty of the International Labour Organization (ILO) or more precisely, it is Part XIII of the Treaty of Versailles of 1919, known today as the 'Constitution' of the organization that had indeed established ILO. The other major peace treaties – including the TPT – simply reproduced its text.¹⁴⁴ This peculiar drafting method, namely, to incorporate the founding treaty¹⁴⁵ of an international organization into another, more extensive treaty, and further international treaties, has long occupied scholars.¹⁴⁶ Although the ILO was established formally by the 1919 Treaty of Versailles, Part XIII of the TPT is also in force since it connects Hungary to the organization and creates some rights and obligations *vis-à-vis* the other state parties to this Constitution. Naturally, this Part of the TPT is in force today as amended from time to time in the history of ILO.¹⁴⁷

Finally, Part XIV ('Miscellaneous Provisions') of the TPT contains only one article that remains in force today.¹⁴⁸ The final article of the TPT – *mutatis mutandis* – is still in effect and applicable, for it stipulates the authentic language(s), the method of ratification and the date of signature.

4. Conclusions

After looking through the TPT, or more precisely what is left of it, one can arrive at the following conclusion: It still serves as the basis for the state of peace between Hungary and four other countries, namely Italy, Japan, Portugal and Thailand. In addition, another important role of this agreement is that it

140 Irk 1926, p. 40.

141 János Bruhács, *Nemzetközi vízjog. A nemzetközi folyóvizek nem hajózási célú hasznosításának joga*, Akadémiai, Budapest, 1986, p. 130; see the provisions of the Belgrade Convention regarding the Regime of Navigation on Danube of 1948.

142 See Articles 311 to 314 of the Trianon Peace Treaty.

143 György Haraszti, *A nemzetközi szerződések megszűnése*, Közgazdasági és Jogi Könyvkiadó, Budapest, 1973, pp. 189-190.

144 See Part XIII. of the Treaty of Saint-Germain-en-Laye of 1919, Part XIII. of the Treaty of Trianon of 1920, Part XII. of the Treaty of Neuilly of 1919 and Part XII of the Treaty of Sévres of 1920 (the latter has not entered into force).

145 Faluhelyi 1923, p. 22.

146 Albert Irk, 'A párizsi békeszerződésnek érvénytelensége', *Jogtudományi Közlöny*, Vol. 58, Issue 13, 1923, p. 99; Irk 1929, p. 157.

147 On the amendments to the Constitution of the International Labour Organization see at www.ilo.org/global/about-the-ilo/who-we-are/international-labour-office/lang--en/index.htm.

148 The others had either been fulfilled or simply lapsed due to *clausula rebus sic stantibus*.

establishes (albeit since modified) the boundary regime between Hungary and its neighbors. Several multilateral¹⁴⁹ and bilateral treaties¹⁵⁰ of non-binding international instruments have confirmed the borders established by the TPT since its adoption. In fact, the 'borders of Trianon' changed permanently, right before or after the ratification of the TPT or in the framework of an overall international settlement such the Paris Peace Conference in 1946. There are also TPT provisions relating to these borders that are still in force today. In addition to some other less important provisions in different parts of the treaty as well as the one relating to the interpretation of its provisions and the obligations of the depositary, only the Constitution of the ILO – albeit in a thoroughly revised form – survived the decades. Other parts gradually lapsed for different reasons. Since the Trianon Peace Treaty is a combination of 'treaty law' and 'treaty contract'-like provisions, the latter simply lapsed as a result of their fulfilment.¹⁵¹ Conversely, 'treaty law' parts of the TPT were either terminated/changed by another successive treaty or agreement or lapsed by reason of *clausula rebus sic stantibus*. It is important to note, *clausula rebus sic stantibus* cannot be invoked in case of agreements (or parts of heterogeneous agreements) establishing international borders.¹⁵² Interestingly, Haraszti was of the view that international agreements establishing boundary regimes automatically lapsed after their one-time obligation had been fulfilled.¹⁵³ I disagree with this view since treaties with provisions of this kind are usually hybrids made of 'treaty contract' and 'treaty law' rules. While their one-time obligation character rather speaks for them being 'treaty contract', they are usually intended to form part of a broader international settlement aimed at stabilizing certain interstate relations. This alone suggests that they are not simple 'treaty contract', but 'treaty law' norms as well. For these reasons I suggest that these types of treaties are not terminated after the fulfillment of obligations arising from of them.

One could also mention the principle of the 'absolute integrity of treaties' when arguing that the TPT lapsed during the decades. Since the TPT is so complex and its different parts can easily be severed from each other this principle cannot be invoked in this case. Furthermore, as the ICJ famously put in its *Reservations to the Genocide Convention advisory opinion*¹⁵⁴ "it does not appear, moreover, that the conception of the absolute integrity of a convention has been transformed into a rule of international law."¹⁵⁵ Whatever the situation may be, both the

149 See the relevant and already cited articles of the Moscow Armistice Agreement of 1945 and the Paris Peace Treaty concluded with Hungary in 1947.

150 See the bilateral agreements concluded between Hungary and its neighbors.

151 For how fulfilment may terminate treaty provisions, see Haraszti 1973, pp. 115-120.

152 Id. p. 236; Article 62(2)(a) VCLT.

153 Id. p. 238.

154 *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion. ICJ Reports 19-51, p. 15.

155 Id. p. 24.

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depository¹⁵⁶ and the states concerned,¹⁵⁷ including Hungary¹⁵⁸ are of the view that the provisions on borders of TPT are still in force.

156 See the note (or more precisely the lack of it) in the Register of International Treaties of the French MFA in this regard, at https://basedoc.diplomatie.gouv.fr/exl-php/recherche/mae_internet__traites.

157 It is also true, that according to the registers of international treaties of states formerly members of the British Empire, the Trianon Peace Treaty is not in force between these countries and Hungary. <https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>; <https://treaty-accord.gc.ca/result-resultat.aspx?type=2>; www.mea.gov.in/TreatyList.htm?1; <https://treaties.dirco.gov.za/dbtw-wpd/textbase/treatywebsearch.htm>; www.treaties.mfat.govt.nz/search/results; <https://info.dfat.gov.au/Info/Treaties/Treaties.nsf/WebView?OpenForm&Seq=5>.

158 At least Hungary considers the Act that promulgated the TPT is still in force. See Points 31 and 87 of the Annex to Act LXXXII of 2007 on Deregulation of Certain Acts and Provisions.