

Organization for Security and Co-operation in Europe High Commissioner on National Minorities

Hr.E. Ms. Zdenka Kramplova
Minister of Foreign Affairs
of the Slovak Republic
Bratislava
Fax: 00421.7.438.3609

Ref.no. 1026/98

29 May 1998

Dear Madame Minister,

Please permit me to draw your attention to two draft laws presently under consideration in the Parliament of the Republic of Slovakia.

First, with regard to the draft Law on Local Elections which has been recently introduced into Parliament by the Government, I have serious concerns about its essential thrust and effects. As I understand the bill, its main aim is to fix the electoral representation along ethnic lines. I believe this is generally undesirable and would in its effects violate the fundamental principle of democracy, i.e. that the will of the people shall be the basis of the authority of government as expressed in Article 21(3) of the Universal Declaration of Human Rights. More particularly, the effects of the draft Law would be to interfere, on the one hand, with the will of the people to elect representatives of their choosing without unjustifiable constraints and, on the other hand, with the right to stand for office without discrimination nor unjustified interference with one's private life.

The principle expressed in Article 21(3) of the Universal Declaration of Human Rights has further specification in Article 25(b) of the International Covenant on Civil and Political Rights which provides for the right to vote and to be elected at genuine periodic elections [...], guaranteeing the free expression of the will of the electors. The principle of free elections protects the right of eligible voters not to be pressured or impermissibly influenced in forming and expressing their will. Eligible voters should be able freely to choose among various alternatives, e.g. parties, programmes, candidates. In my view, the condition of relevant nationality required for eligibility to hold a seat in the municipal council as prescribed in amended paragraph 1 of Article 51 of the draft law means that only candidates with the relevant nationality can be elected. Therefore, the effect of the draft Law is to prevent electors from being able to vote for a candidate who would have an ethnicity different from that attached to the mandates on the basis of the ethnicity of the incumbent. This is a serious and unjustifiable limitation on the possible alternatives for the electorate. The implication

also follows that the essential choice will not be between candidates from political parties or programmes, but between ethnicities/nationalities.

While the effect of the draft Law clearly limits the choices available to the electorate, it also entails a serious interference to the right to be elected without discrimination as guaranteed in several international instruments to which the Slovak Republic is a State Party, including: Article 25(b) of the International Covenant on Civil and Political Rights in conjunction with Article 2 of the Covenant; Article 5(c) of the International Convention on the Elimination of All Forms of Racial Discrimination; and Article 3 of Protocol No. 1 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, read in conjunction with Article 14 of the Convention; and Paragraph 7(5) of the Copenhagen Document of the CSCE Conference on the Human Dimension. In exercising one's right to be elected (or to vote), no citizen may be hindered or restricted in law or in fact for reason of race, colour, religion, birth, political or other opinion, [...] national or ethnic origin, sex, property or other status. The requirement of indication of ethnic origin for purposes of the municipal elections would, in my view, represent an impermissible restriction to the right to be elected without any distinction as to ethnic origin.

The requirement of the draft Law that candidates must indicate their ethnicity in registration forms, ballots, etc. in cases where the individual does not wish to express his or her ethnical/national origin, will in fact deprive persons who do not wish publicly to identify their ethnicity of the opportunity to stand for office in municipal elections. In this connection, one should bear in mind that membership of an ethnic group has an important subjective element. If individuals wish to express or renounce their association with a group, they must be free to do so. Compelling an individual to be associated or to express association with a minority culture would violate the right to privacy.

In sum, the draft Law violates a number of international principles and specific standards concerning free elections and individual human rights.

Turning to the second issue upon which I wish to address you, it has come to my attention that a bill has been presented to Parliament by some members of the Slovak National Party, which, among other things, aims at modifications regarding the language of instruction in Hungarian language schools. In this respect, I have noted the statement of Prime Minister Meciar that he considers the law to be unconstitutional. On my part I would express the hope that the law will not be adopted at all. It clearly intends to impose the concept of the so-called alternative school. However, your Government, in its Policy statement of April 1994, stated that the right to choose the language of teaching would be respected. Regarding the preferences of the Hungarian minority, a survey of the views of the parents in 1995 showed that an overwhelming majority of the parents rejected this concept. The comment of your predecessor Mr Juray Schenk in his letter of October 1995 was ...this was a free decision of the majority of parents and will be respected as such . Against this background I express the hope that your Government will try to convince Parliament not to adopt this law.

These, Madame Minister, were the matters I wish to address you upon at this time.

Yours sincerely,

Max van der Stoel

Unofficial translation

***Minister of Foreign Affairs
of the Slovak Republic
Zdenka Kramplová***

*Bratislava, 13 July 1998
No.: 200.414198 - KAMI*

Dear Commissioner,

Thank you for your interest in the development of the legislative process connected with the preparation of amendment of several laws.

In connection with the draft Law on Local Elections I have the honour to inform you that this draft law has already been adopted in the National Council of the Slovak Republic. It can also be said that through this law the Slovak Republic safeguards the right of the national minorities to govern the affairs they are concerned with.

As for the draft amendment of the School Law presented by the Group of deputies of the Slovak National Party, I have the honour to inform you that the Committee on Constitutional and Legal Matters of the National Council of the Slovak Republic on 9 June 1998 did not recommend the adopting of this bill and eventually at the Parliamentary session on 2 July 1998 the Parliament did not even pass it.

*HE
Max van der Stoel
High Commissioner on National Minorities
OSCE*

The Hague

As regards the alternative education I would like to inform you that it bears no relationship to the draft amendment of the School Law. It is a form of bilingual

education based on the freedom of choice. The expression alternative education is chosen deliberately so as to emphasise the opportunity of an alternative, i.e. the free choosing and decision of parents on whether to put their children in schools with bilingual teaching, in Slovak language as well (at least some subjects, i.e. Slovak, geography and history). By claiming that the majority rejected this system, the rights of parents who made use of this opportunity do not cease to exist. If the state does not give its citizens the opportunity to choose freely, but on the contrary, through its passivity actually creates conditions for a forced assimilation of Slovak and other non-Hungarian citizens in ethnically mixed regions, it would severely violate the rights of a number of citizens who want to learn their mother tongue and national language on an appropriate level, what is a right guaranteed also by the Constitution and international regulations.

Sincerely,

(Signature)



**Organization for Security and Co-operation in Europe
High Commissioner on National Minorities**

Ref.no. 1069/98

Hr.E. Ms. Zdenka Kramplova
Minister of Foreign Affairs
of the Slovak Republic
Bratislava

Fax: 00421.7.438.3609

24 July 1998

Dear Madam Minister,

Thank you for your letter of 13 July in reply to my letter of 29 May 1998. I have noted with regret that, contrary to the usual practice, you have not taken a position regarding the objections I had formulated against a number of provisions of the then draft Law on Local Elections. I equally regret that this Law has been adopted without the amendments required to ensure that the Law would be in conformity with international standards accepted by Slovakia.

Regarding the remarks in your letter concerning the concept of alternative education, I want to make it clear that I do respect the right of those favouring an alternative

schooling to opt for such schooling. On the other hand, I am also of the opinion that the system of alternative education cannot be imposed on parents who object to it. I was pleased to note that the Parliament of Slovakia, by rejecting the legislative proposals which the Slovak National Party had proposed in order to impose this system, has decided in favour of the freedom of parents to choose the school system they prefer.

Yours sincerely,

Max van der Stoep

*Minister of Foreign Affairs
of the Slovak Republic*

Zdenka Kramplová
August 1998

Bratislava

Dear High Commissioner,

I wish to thank you for your continuing interest in further details concerning some national legal standards in the Slovak Republic. Simultaneously permit me to express my surprise in connection with your putting in doubt the compatibility of the amendment of the Act on elections into self-governing bodies of municipalities with the system of valid legal standards which envisage the commitments of the Slovak Republic resulting from international treaties.

The main significance of the amendment is to ensure the legal guarantee for the equal participation of persons belonging to national minorities and ethnic groups in the representative corps of municipalities. In conformity with the generally acknowledged principle of subsidiarity the Slovak Republic attaches due importance to the application of the principle of equality already on the level of the basic degree of territorial self-government, i.e. municipalities. That was the reason why there was set up a specific legal system for electing the deputies of municipality representation in municipalities where the population consists of representatives of both minority and majority nations. Through this measure the Slovak Republic legally guarantees the participation of persons belonging to national minorities and ethnic groups in the administration of public affairs. In this way, the possibility of discrimination is excluded.

In connection with the question of alternative educational system I have the honour to repeatedly assure you that its basis is the application of the principle of voluntary approach. The very title of the abovementioned system of education was used with the aim to emphasize the right of the parents to freely choose one of the two alternatives, i.e. to put their children into a bilingual school or leave them at a school

With education in their mother-tongue. In this way the Slovak Republic confirmed that it accepted and utilizes the bilingual system of education which belongs to standard forms of education at schools where the language of education is that of national minorities in all European states.

Yours sincerely

(Signature)

His Excellency
Max van der Stoep
High Commissioner for
National Minorities
OSCE
The Hague
