

H.E. Mrs Zdenka Kramplova
Minister for Foreign Affairs
of the Republic of Slovakia
Stromová 1
833 36 BRATISLAVA
Republic of Slovakia

Reference 682/97

The Hague
10 December 1997

Dear Madam Minister,

Thank you for your letter of 6 November to which you attach the “Memorandum of the Government of the Slovak Republic Concerning the Questions Relating to the Use of Languages of Persons Belonging to National Minorities in the Slovak Republic”. I appreciate your willingness, as indicated in your letter, to invite international experts to examine the constitutional and legislative provisions governing the use of minority languages so as to establish a framework for discussions with the Slovak Government concerning the need for possible further initiatives in this area.

Experts from the Council of Europe, the OSCE and the European Commission have jointly examined the situation of minority language rights in Slovakia, including the legislative and constitutional provisions that are referred to in your memorandum. This assessment aims at establishing whether these provisions fully guarantee the rights of minorities to use their language and cover the international commitments of Slovakia. The experts would like to discuss their assessments with you as soon as possible.

In preparation for those discussions, I would like to share a few of their observations with you. The appraisal of the experts points to a situation of legal uncertainty in Slovakia regarding the use of minority languages. This uncertainty was created by the adoption of the Law on the State Language which establishes the precedence of the Slovak language in a variety of settings without at the same time clearly taking into account the rights of persons belonging to national minorities to use their own language. In a number of areas, it is not always clear whether certain provisions in other legislation touching on the use of minority languages have been superseded by the Law on the State Language.

Secondly, whilst there are many legislative provisions in force covering various aspects of minority language use, they do not fully cover all aspects of the use of minority languages. In this connection I should like to return to the question of the use of minority languages in official communications. On 1 January 1996 the Law on the State Language of the Slovak Republic entered into effect. Section 12 of this law declares null and void the Slovak National Council Law no.428/1990 on the official

language of the Slovak Republic. This had i.a. as a consequence that Section 6 paragraph 2 of that law (“if persons belonging to a national minority constitute at least 20% of the population of a town or village, they have the right to use their languages in such towns and villages in official communications”) was no longer valid. In this connection I wrote to your predecessor Mr Juri Schenk on 24 August 1995 that, though Article 34 paragraph 2 sub b of the Constitution of the Republic of Slovakia refers to the right to use a minority language in official communications, this right is granted “under provisions fixed by law”. In my letter of 26 February 1996 I came back to this issue, writing i.a. “As long as new legislation on this subject is not yet in force, there is, therefore, a legal vacuum”. In his reply of 25 April 1996, Mr Schenk wrote i.a. “that it is only possible to speak of a “legal vacuum” in a very relative and particular sense, namely – as you correctly state – only in view of specifying the constitutional right to use a minority language by means of a lower level legal norm. May I reassure you once again that, pursuant to Article 6 paragraph 2 of the Slovak Constitution, preparatory meetings have started for drafting a law which will deal with the issue in accordance with the legitimate language rights of persons belonging to national minorities, such as these are expressed in the relevant UN, Council of Europe and OSCE international documents”.

Since receiving the letter from M. Schenk, the Constitutional Court has issued a judgement, indicating that “the provision contained in Section 3 para 5 of the Act of the National Council of the Slovak Republic No. 270/1995 on the State Language of the Slovak Republic in association with the provisions contained in Section 12 of the aforesaid Act is not in harmony with Article 34 para 2 (b) of the Constitution of the Slovak Republic to the extent that it applies to those citizens of the Slovak Republic who belong to national minorities or ethnic groups”.

When I discussed this matter again with Deputy Prime Minister Mrs Tothova on October 15 of this year, she informed me that Article 34 paragraph 2 of the Constitution of the Republic of Slovakia had to be seen in conjunction with its Article 2 paragraph 3 which states i.a. that anyone may act in a way not forbidden by law. In her view specific legislation on this issue was therefore not needed, since every Slovak citizen belonging to a national minority had the right to address an official communication to a public authority in his or her language.

With great interest I have taken note of the view of your government that any citizen belonging to a minority has the right to use his or her languages in official communications. However, I still feel there is a need for legislation dealing with the practical implementation of this right.

Legislation is in my view also needed regarding the question of the school certificates. In my meeting with Mrs Tothova on 15 October she underlined that, as all official documents have to be in the state language, a school certificate had to be issued in the state language as well. However, recalling Article 2 paragraph 3 of the Constitution of the Republic of Slovakia, she stressed that school authorities would be free to issue such certificates *also* in a minority language.

As there has been considerable confusion around this issue, I would express the hope that the principle outlined by the Deputy Prime Minister will be elaborated in concrete legislation. This also was not excluded by Mrs Tothova, who mentioned in

this respect that legislation could stipulate that school certificates would also be issued in the minority language if the parents would submit a request for this.

This is not an exhaustive list of observations. Other issues related to the State Language Law, for example, previously raised by the Council of Europe and the OSCE in contacts with your Government need to be addressed. These include issues arising in the light of international standards.

I suggest that a meeting be convened as soon as possible between experts from the Slovak Government and the European Commission, the OSCE and the Council of Europe. The objective of this meeting would be to discuss the results of the appraisal of the legislative and constitutional situations in Slovakia and to agree on short and medium term priorities, including the corresponding legislative initiatives required in regard to the protection of minority language rights. The issue of the adoption of legislation on minority languages will figure importantly in these discussions. The signing and ratification of the European Charter for Regional or Minority Languages and a review of the State Language Law also in the light of nearly two years of practical implementation should also be examined. Once agreement in principle is reached on these issues, the three organisations will rapidly mobilise any further expertise required.

Again, I appreciate your willingness to further co-operate in this important area and look forward to hearing from you soon concerning the organisation of a meeting between the Slovak Government and the international institutions concerned to discuss the points raised above.

I have taken the liberty to send a copy of this letter to your colleague Mrs Tothova.

Your sincerely,

(M. van der Stoel)