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**High Commissioner for
National Minorities**

His Excellency
Mr Juraj Schenk
Minister for Foreign Affairs
of the Slovak Republic
Stromová 1
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No 899/95L

The Hague
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Dear Mr Minister,

May I first of all express my gratitude for the assistance given to the Team of Experts and to myself during our visit to your country on 5 - 7 June 1995. Your Ministry was most helpful in organizing this visit and provided us with a considerable amount of useful documentation and information.

After having solicited the views of the experts, I submit to you, as I did on previous occasions, a number of comments and recommendations regarding a number of current questions relating to minorities. In doing this, I have also taken into account the text of the treaty on good neighbourliness and friendly cooperation which was concluded last March between the Slovak Republic and the Republic of Hungary, because it contains a number of important principles regarding the treatment of persons belonging to national minorities. I feel entitled to do so, because, even though the treaty still has to be approved by the National Council of Slovakia, its contents can be considered as reflecting the views of the Slovak Government.

The concept of alternative education

One of the subjects most discussed recently in your country is the introduction of a system of alternative education in linguistically mixed regions. This question is

especially relevant for the Hungarian minority in Slovakia. According to the data regarding the schoolyear 1993/1994 published in a publication of your Ministry (footnote: Situation of the Hungarian minority in the Slovak Republic (comparison with international documents)) 77% of the total number of children belonging to the Hungarian minority attending kindergarten go to kindergarten with Hungarian as the language of instruction. Approximately 80% of the total number of pupils of Hungarian nationality at the elementary school level attend elementary schools with Hungarian as the language of instruction (the Slovak language being taught as a compulsory subject during the school period of attendance to elementary school). The others go to mixed elementary schools, i.e. those with Slovak classes besides Hungarian ones.

On the basis of the conversations the Team of Experts and I had with the Minister of Education Mrs Slavkowska, and various publications on the subject, I understand that the concept of alternative education has the following elements :

1. In kindergarten with Hungarian as language of instruction, teachers in charge of teaching in Slovak would teach in two classes according to the following pattern : one week, in one class, on Monday, Wednesday and Friday; in the other class, on Tuesday and Thursday; the other week vice versa. Thus it is estimated that every week a total of 28 hours would be available for education in the Slovak language;
2. For elementary schools, two options are being envisaged for introducing bilingual classes in addition to the existing classes in the Hungarian language. The more restricted option foresees bilingual classes starting only in the fifth year of primary schools. In secondary schools, the choice of two options is also foreseen.

In the conversation the Team of Experts and I had with the Minister of Education, she stressed that participation in the alternative education system would be on a strictly voluntary basis. Parents would not be obliged to send their children to the alternative classes. Such classes would only be started if there were sufficient interest for them. In this connection a number of 20 pupils was mentioned, with exceptions to be made for special circumstances in individual localities. In the near future, the alternative system would start on an experimental basis.

In recent months, parents of the Hungarian minority have been asked to give their views on the plans of the Government. A very strong majority of them have apparently given a negative reaction. The protagonists of the alternative education system stress that this is probably due to a misunderstanding of what is intended, and express the hope that further explanations will lead to a more positive response. The reactions in the Hungarian community in Slovakia against the plan are so strong, however, that I doubt that a major shift in favour of the plan in the coming years is likely. On the other hand, the Government has committed itself - and has continued to commit itself after the reaction of the parents became known - to respect the free choice of the parents. Fears have been expressed that the Government might resort to indirect pressure on the parents, for instance by implying that pupils of Hungarian schools would suffer the consequences of their choice in their future careers, or by taking steps which would be to the financial disadvantage of Hungarian language schools. It is my assumption that the Government will firmly reject such a cause of

action because this would mean a breach of its promise to respect the free choice of the parents.

In the policy statement of 12 January 1995 your Government announced its intention to create the conditions for the thorough learning of the state language in the linguistically mixed areas of the Slovak Republic. In this context it mentioned the concept of alternative education at state schools operating in the linguistically mixed territories of Slovakia. In my view, your Government acts in full conformity with international standards when it tries to ensure that all citizens of your country have a proper knowledge of the state language. In this context, I refer to paragraph 34 of the 1990 OSCE Copenhagen Document which refers to "the need to learn the official language or languages of the state." On the other hand, there are other ways than the concept of alternative education to achieve this end. In the light of the opposition of most of the parents of the Hungarian minority to the concept of alternative education on the one hand, and the commitment of the Government to respect the free choice of the parents on the other, I would recommend that an investigation will be made about the quality of the teaching of the Slovak language in Hungarian schools and the ways to ensure its improvement where necessary. In order to avoid any complaints about partiality, it might be advisable to use international expertise in such a study.

The draft law on the state language of the Slovak Republic

With great interest I studied the draft law on the state language of the Slovak Republic. Its main aim is clearly that the role of the Slovak language as the state language will be ensured and protected. Other European states have laws with similar objectives. On the other hand, in states with national minorities, the question inevitably arises how to find a balance between the right of a state to ensure that the position of the state language is safeguarded and the need to ensure that the languages of the national minorities are protected in accordance with international standards. In this context I mention Article 1 of the UN Declaration on the Rights of Persons belonging to National, or Ethnic, Religious and Linguistic Minorities (legally binding for Slovakia once the treaty with Hungary comes into force) which requires i.a. that states shall protect the linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of their identity. Article 15.2g of the treaty concluded with Hungary also makes several references to the linguistic rights of persons belonging to minorities. So do paragraphs 32.1 and 34 of the Copenhagen Document and Article 10.1 of the Council of Europe Framework Convention. The existing law on the official language contains (Article 1, paragraph 2) a reference to "international obligations in the field of human rights. I would suggest a similar reference to international obligations and commitments in the text of the new law.

In making these remarks, I am of course aware of the repeated assurances of your Government that it intends fully to respect its international commitments. In addition, Article 34 of the Constitution of the Slovak Republic is of major significance in this respect. I also noted that the draft law on the state language of the Slovak Republic contains a number of references to the linguistic rights of persons belonging to minorities. What causes me some concern, however, is that in a number of fields the draft law is formulated in such a way that it leads to uncertainty about the position of

the minority languages. I will illustrate this with a few examples. Article 10 of the draft law states that law no 428/1990 on the official language of the Slovak Republic is null and void. This has 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 language in such towns and villages in official communications") is no longer valid. On the other hand, Article 34.2 sub b of the Constitution of the Slovak Republic refers to "the right to use a minority language in official communications." However, this right is granted "under provisions fixed by law". If the draft law would be adopted, no such law would exist anymore. I would, therefore, recommend that the text of Article 6 paragraph 2 of the law on the official language will be incorporated in the draft law.

The reference in footnotes to various Articles of other laws also lead to doubts about the continued validity of other sections of such laws. For instance, Article 5.1 of the draft law states that broadcasts in the languages of the ethnic minorities are regulated by special provisions. A footnote then refers to Article 5 of law 255/1991 on Slovak Radio, and Article 3 of law 254/1991 on Slovak Television. No reference is being made to a number of other Articles in laws relating to Slovak Radio and TV and their role to promote the identity of the national minorities quoted in the publication of your Ministry on the status of the Hungarian minority in the Slovak Republic (Section 9, paragraph 2, item c, law on the operation of Radio and TV broadcasting no 268/1993; Section 6, item d, law on the Slovak Radio no 270/1993; Section 3, paragraph 3 and Section 6, item j, law on Slovak Television 271/1993.) In my view it would be desirable that the draft law would confirm their continued validity.

Article 4.3 of the draft law states that text books and teaching aids (video, film, electronic recordings and so on) used in the teaching process are issued in the state language; they can be issued in another language only to the extent determined by special provisions. As the question of text books in minority schools is an important one, it would in my view be preferable to deal with this matter in the text of the law itself. I hope that the question of the import of text books and other educational material from Hungary will be solved in the spirit of Article 12.7 of the treaty concluded between Slovakia and Hungary (each contracting party shall endeavour to expand the opportunities for learning about culture, literature and language of the other contracting party).

A number of provisions in the draft law could be interpreted in a way which might not be intended at all. For instance Article 2, paragraph 2, sub c, could be interpreted as excluding the language of a minority as the means of communication within such a minority. Article 3, paragraph 1, might be interpreted as making it impossible for a state university to employ foreign teachers if they don't know the Slovak language. Article 4, paragraph 3 could be interpreted as obliging teachers in minority language schools to use only the Slovak language in the teaching process. Reformulation of these paragraphs must be considered desirable.

Article 9, paragraph 3 refers to the supervision of the obligations under the draft law by the Ministry of Culture. My assumption is that the way this task will be implemented shall be the subject of a subordinate set of regulations. I would recommend that these regulations shall be published as they will give a clearer insight into the way the law will be implemented.

Minorities and Cultural Policy

In 1995, the overall budget of the Ministry of Culture was increased considerably compared with 1994. On the other hand, the direct contributions from the budget of the Ministry to various cultural activities of national minorities have been considerably reduced. The most severe cuts have been made in the contributions of the Ministry to periodicals and other publications in the language of national minorities.

Considerable reductions were also made in the contributions to the functioning of various national minority organisations, the percentage of the reduction being the highest for CSEMADOK, the social and cultural Alliance of Hungarians in Slovakia.

I can only express the hope that in the coming years this downward trend will be reversed, also taking into account the fact that subsidies are the most effective and sometimes the only way to implement the commitment contained in para. 33 of the CSCE 1990 Copenhagen Document regarding the protection and the creation of conditions for the promotion of the cultural identity of national minorities.

In the statement on government policy of 12 January 1995 it is announced that norms will be drafted for the support of minority cultures. I express the hope that these norms, before being presented to the National Council in the form of a draft law, will be the subject of discussion in the Government Council for Nationalities.

I would also recommend that the formulation of these norms should be accompanied by a change of the decision-making process regarding the allocation of funds for various cultural activities of national minorities. At present the Ministry of Culture is making these decisions, and as a consequence, it is also the target of criticism if it rejects specific projects or provides less money for a project than has been asked for. In my view it would be preferable to delegate this responsibility to the minorities themselves. Once the National Council has decided on the total budget for cultural activities of all the national minorities, the funds made available, could be divided amongst the various national minorities, the percentage allotted to each to be decided on the basis of their numerical strength with a certain minimum for the smallest national minorities. The decision on how to divide up the funds available of various cultural projects planned within each national minority could be left to a committee of representatives of that minority. The task of the Ministry of Culture would be to ensure that the norms would be respected. If this would not be the case, the relevant decision could be annulled. Such a policy would be very much in line with Article 15 of the Framework Convention which states: "the parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them."

The declaration on government policy of January 12, 1995 also states that special attention will be given to "strengthening the position of the culture of the Slovaks living in the territories imbued with the culture of the ethnic minority." As long as such a policy has as its sole aim to strengthen Slovak culture in areas where a national minority constitutes a majority, and refrains from steps to weaken the culture of the other ethnic group, such a policy is in my view compatible with international norms. I would recommend, however, that such a policy will not be financed by reducing the

funds available for supporting the culture of the national minorities living in Slovakia, because it is difficult to see why it would have to be implemented at their expense.

Finally, I noted that a number of periodicals have been given subsidies totalling SK 27.70 mn in order to publish supplements in the languages of national minorities. This new policy has been explained by the need to provide objective and relevant information of an apolitical nature, especially for people who have problems with the Slovak language. As this new policy is specifically designed for, and of immediate relevance to the various national minorities, I would recommend that the Council of the Government for National Minorities, making use of the competence given to it under Article 4 of its Statutes, will establish a special working group to follow and analyze its implementation. On the basis of the report of the working group, the Council could then, when it would fit the need to do so, come forward with suggestions and recommendations regarding this policy as foreseen in Article 12 , 1 (d) of its Statutes.

These, Mr Minister, are the recommendations I should like to submit to you. I have refrained from making new comments on the administrative reform planned in the Slovak Republic; in my view the suggestions I made in my letter of 21 June 1994 remain relevant. I hope you will accept them as they are intended : as a genuine effort to be of help in solving the difficult questions relating to national minorities your Government has to face. It is my firm belief that, if both national minorities and the Government choose a constructive approach, they can be solved in a satisfactory way. In this respect, I want to emphasize the importance I attach to what is stated so clearly in the policy statement of your Government : "In dealing with all the questions related to the situation and the rights of persons belonging to national minorities, the Government will abide by the Constitution of the Slovak Republic and the international legal and political commitments of the Slovak Republic."

I am looking forward with great interest to the reply of your Government.

Yours sincerely,

[signature]

Max van der Stoep
OSCE High Commissioner
on National Minorities

**Minister for Foreign Affairs
of the Slovak Republic**

Bratislava, October 20, 1995
Ref.: 201.707/95-KAMI

Dear Mr. High Commissioner,

I am taking the liberty of briefly reacting to your commentary and recommendations based on the results of the work of your experts during their stay in Slovakia on June 5-7, 1995. In your letter you have mentioned three themes which, at the time of your team's visit, ranked among most frequently discussed in the area of minority relations: the concept of so-called alternative education, draft principles of the law on the state language of the Slovak Republic and the cultural policy towards minorities.

Before I touch on each of the above-mentioned themes to give you information about the current state of affairs and the measures in process. I would like to assure you. Your Excellency, - and please take this for an axiom of the Slovak minority related policy - that all international commitments, both legal and political, which the Slovak Republic has, are an obvious component part of all considerations and measures on the part of the state in the area of minority relations, The Slovak Republic has confirmed convincingly its commitments also by incorporating them fully into the basic treaty with the Republic of Hungary. This treaty can be regarded as a reliable criterion of the standards for minority related policies and as an expression of the belief that these rights are universally acknowledged regardless of number, origin or mode of settlement of the given minority. However, the organic component part of such policy, which is simultaneously a prerequisite of its constructiveness, is the creation of the conditions for full civic integration of the members of minority in the life of the majority society and the state. And it is on the background of this unquestionable fact that the project of the so-called alternative education and the draft principles of the law on state language have to be understood.

As for the project of the so-called alternative education, or rather *raison d'etre* of this idea, I fully agree with the opinion expressed clearly in the previous letter of October 28, 1994 and hence I will not repeat it once more. I would only like to inform you that on the basis of research into parents' interest to have alternative instruction in certain subjects introduced for their children, this form of education will be implemented in the school year of 1995/1996 in 29 kindergartens having 407 children, in one small-class elementary school with 6 pupils and in 3 secondary schools with 363 students. Although these are preliminary data, It is obvious that in absolute majority of schools with Hungarian language as a language of instruction, this form of education will not be introduced for lack of parental consent (thus fully respecting by the government of the SR the proclaimed principle of voluntary option) and different methods of instruction of the Slovak language as the state language will be applied in order to achieve - above all in the interest of the future of the children of Hungarian minority - adequate standard of the Slovak Language command. In this respect I want to note, Your Excellency, that on the basis of the Concept of Teaching Slovak Language and Literature in schools with Hungarian as a language of instruction, approved by the Government of the Slovak Republic as early as 1991,

new curriculum for the subject of the Slovak language and literature was gradually being introduced in schools. The curriculum became effective on September 1, 1993, for elementary schools with Hungarian as a language of instruction and, in this school year, for secondary schools with Hungarian as a language of instruction.

Communicative approach is the dominant principle of this concept. The Ministry for the Education of the Slovak Republic has elaborated a study based on the findings of Central Board of Inspectors and particular inspection centres on the nationally mixed territory, entitled The Assessment of the Level of the Slovak Language Command in Schools on Nationally Mixed Territory and in cooperation with the State Pedagogic Institute and methodological departments of particular school boards on nationally mixed territory, proposed a set of measures for the improvement of Slovak language command. The Government of the Slovak Republic on its session on September 26, 1995, proposed to put further measures to this set. Hopefully these measures will result in what was after all the intention - in my opinion, however, in a far more efficient way - of the project of so-called alternative education: to release the members of Hungarian minority from the monolingual grip with the ultimate objective to achieve "closer relations between peoples and a better understanding between different population groups within the state on an intercultural basis". (Paragraph 14 of Explanatory Report to the European Charter for Regional or Minority Languages).

As for the concerns that have been communicated to you in connection with potential consequences of the refusal of the project of alternative education on the part of Hungarian minority parents. I can assure you, Your Excellency, that they are fully ungrounded. We can have, of course, different opinions - and I have expressed mine already - on the reasonability of such attitude but that was a free decision of the majority of parents and it will be respected as such.

I will command on the draft principles of the Law on State Language of the Slovak Republic only briefly because this piece of legislation is still in process of creation to which legal experts of Council of Europe have been invited quite recently. As you mentioned - there are legal norms governing the position of the state language in other European countries as well. Of course, in countries with numerous minorities caution has to be exercised in order that by adopting this norm legitimate rights of minorities are not infringed. Similar attention must be paid, However, to ensure that the state language as a general language of communication is protected and respected on the whole territory, which unfortunately is not always the case on the territories with higher concentration of Hungarian population. I am convinced, your Excellency, that the legal assistance of the experts of Council of Europe as well as the recommendations of your experts which I referred to the Ministry for Culture as the initiator of the draft law, will be sufficient guarantee for achieving a just equilibrium and will disperse potential concerns of the representatives of minority about the failure to respect their legitimate language rights. I take this opportunity, Your Excellency, to inform you that the consultation of legal experts of Council of Europe and the experts of the Slovak Republic in the presence of Deputy Prime Minister in charge of legislation Mrs. K.Tóthová and the Minister for Culture Mr. I Hudec took place in Strasbourg on October 5, 1995. The result of this consultation was positive. The experts stated that the adoption of the law is well-founded and it is not in contradiction with the Framework Convention for the Protection of National Minorities. After the utilization of the legislative technical recommendations of legal

experts of Council of Europe and the experts of your team, the draft principles of the law on State Language will be submitted to the Governmental Council of the Slovak Republic for National Minorities.

As for financing minority culture in Slovakia, it is necessary to mention certain facts which will help to better understand the present situation in this area. In the Slovak Republic there exists the so-called three-layer model of financing of minority cultures which however, is not fully applicable to all minorities. Its applicability depends on the size of particular minority, its internal potential and the density settlement rate. Cultural activities of minorities are funded on the lowest level from the budget of municipalities as independent self-governing units. On this level, we can speak about entirely autonomous decision making in finances spent on culture (for example, the publishing of local and regional periodicals in Hungarian language). This applied mostly to Hungarians, Ruthenians and Ukrainians. The next level is represented by a considerably developed network of cultural institutions whose founder is the Ministry of Culture and which provides services either to all citizens living on nationally mixed territory (regional cultural centres, libraries), or have a direct minority related nature (theatres, museums, dancing and singing ensembles). Understandably, since the founder is the Ministry of Culture, they are entitled by law to contributions from the state budget. Of course, these contribution are granted without any problems. This applies mainly to Hungarians, Ruthenians, Ukrainians and Romanies. Finally, the third layer with the most universal reach is represented by cultural associations of particular minorities and their cultural activities and the publishing houses and offices of minorities. At present there are ten such cultural associations which were established on the basis of Act on Civic Associations.

On this level certain problems exist connected with the financing of cultural activities of minorities as you are suggesting, your Excellency, in your letter. According to the information of the Ministry of Culture, in the period from 1992 to 1994, at a time when financing on this level for minorities (for cultural events, periodicals and non-periodicals, non-periodical literature) was decided solely by the representatives of these minorities there were cases of non-effective and purposeless spending. Unfortunately, also for such goals which were not connected with the cultural activities. Auditing bodies of the Ministry of Culture and the High Audit Office of the Slovak Republic in this respect found breach of certain laws as well as of the Guidelines of the Ministry of Culture of the Slovak republic for Provision, Accounting and Audit of Contributions from the Budget of the Ministry of Culture of the Slovak Republic in interest associations, publishers of minority and children periodicals and non-periodicals and original cultural production and distribution. As a result the Ministry of Culture at present is claiming a sum amounting to 740 665,90 Sk for Romany cultural association, 470 000 SK from the Ruthenian Revival and the Hungarian Cultural Association Csemadok was withheld the contribution amounting to 4 112 000 Sk (the Ministry of Culture paid out only part of this contribution amounting to 2 100 000 Sk) by time the Csemadok submits its accounting for 1994 which it would be clear Csemadok had used 4 766 000 SK that were strictly risk-specific.

These facts have led the Ministry of Culture to make the decision to change the mechanism of financing the development of minority cultures, catered for by cultural association and publishing houses. Finances are now provided directly to submitted

cultural projects that were approved by the Commission for Minority Cultures on a contract basis between the Ministry of Culture and the project applicants. It is a grant mechanism which is quite common in the world. This commission is a component part of the State Cultural Fund Pro Slovakia and has representation from the members of minorities. In this respect, Your Excellency, your proposal for financing mechanism in the development of minority culture seems interesting but evidently premature. In any case, I informed the Ministry of Culture about your proposal and it may become subject of discussions pro futuro.

I can assure you, Your Excellency, that as for the measures related to the strengthening of culture of Slovaks living in ethnically mixed territories, it is not focused against any minority culture and it will not be implemented using financial resources dedicated to the development of these cultures. You are right in saying, Your Excellency, that as far as the objective of such policy is to achieve reasonably balanced coexistence of different cultures, its legitimacy cannot be questioned. After all - I mention it as a curiosity - this self-evident fact was taken on board by the European Commission for the Democracy through Law, when in Art. 16 of its proposals for European Convention for the Protection of Minorities expresses verbiis the duty of the state to take measures for the protection of the members of majority who find themselves in the position of local minorities is embedded. I take the liberty to inform you that in 1996 a special fund will be raised for the implementation of this intention from the resources that each sector had to claim in its budget for 1996, in line with the Government Decree No. 459/1995.

In conclusion, Your Excellency, I would like to once more refer to the previous letter of October 28, 1995 in connection with the reform of local public administration. All that had been mentioned in this respect in that letter, still applied in full extent. Discussions about the new type of territorial and administrative division of Slovakia are held both on governmental level as well as the level of non-governmental organizations, for example the Association of Towns and Villages in Slovakia I am confident that the result of discussion will be a model which will correspond to essential interest of this country and, of course, to the commitments that the Slovak Republic as a member state of the Council of Europe has in this respect. Your Excellency, allow me to express appreciation of the cooperation with Your office and with You personally in sincere belief that it is useful for both parties involved.

Yours sincerely,

[signature]
Juraj Schenk