

**Prague Office of the Secretariat of the
Conference on Security and Co-operation in Europe**

CSCE Communication No. 26/94

Prague, 14 June 1994

RELEASE OF DOCUMENT

Recommendations to the Government of Kazakhstan; letter of the CSCE High Commissioner on National Minorities

Upon the decision of the 27th Meeting of the Committee of Senior Officials taken on 13 June 1994, the above mentioned letter of the CSCE High Commissioner on National Minorities to the Minister of Foreign Affairs of Kazakhstan, dated 29 April 1994 as well as the letter of reply, dated 9 June 1994 (CSCE Communication No. 26/1994) has been released to the public.

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C S C E

High Commissioner
on National Minorities

His Excellency
Mr Kanat B. Saudabayev
Minister for Foreign Affairs
of the Republic of Kazakhstan
ALMATY
Republic of Kazakhstan

Reference :
No 2357/94/L

The Hague
29 April 1994

Dear Mr Minister,

May I first of all express my gratitude for the kind reception you and your Government gave me during my recent visit to Kazakhstan. I especially appreciated the willingness of President Nazarbayev to explain personally to me his policies and aims concerning inter- ethnic relations in your country.

Kazakhstan has many natural resources, but it has also a rich reservoir of human talent. It therefore can have high hopes for its future. But your country is also facing many challenges. The transition from a totalitarian to a democratic state structure requires an immense effort. But the transition to a market economy inevitably leads to many sacrifices. Please be assured that, when trying to make some recommendations about the question of inter-ethnic relations in your country, I am very much aware of these difficulties.

Paragraph 30 of the 1990 Copenhagen CSCE Document on the Human Dimension states that questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. In my view, all CSCE states have to take this constantly into account when they are dealing with minority questions. Minorities cannot be assured

of their appropriate place in society if the democratic system does not function properly. I therefore welcome the repeated assurances of your Government that it intends to develop the democratic institutions of Kazakhstan. I would like to stress especially the need to make determined efforts to liberate the judicial system from the remnants of the totalitarian past, and to ensure that the courts fulfil their role in an objective way, free from any effort of the executive to influence their verdicts. Well coordinated international legal assistance can in my view play an important role in promoting this process. Free elections are, of course, an essential part of an effectively functioning democratic system. It would be unrealistic to expect that after 70 years of Soviet rule, the national elections of 30 March would take place without flaws. Still, it is important to face the question which improvements should be made in future elections. In this respect, I wholeheartedly endorse the recommendations which the Office of Democratic Institutions and Human Rights of the CSCE has made concerning this question.

During the Soviet period, the Kazakh language and culture have suffered. It is therefore in my view completely understandable that efforts are now being made to overcome the effects of long years of neglect. The Kazakh language will have to recover its rightful place. But on the other hand, it has to be recognised that this is inevitably a process which will take many years. To force the tempo of the restoration of the Kazakh language could have potentially disruptive effects. In addition, it has to be realised that Russian is not only the language of inter-ethnic communication, but also the native language of 36% of the population, and the most familiar language for the Ukrainian and Belarusian population groups. It is especially important to ensure that in courts and in communications with public authorities members of these groups will be able to continue to use the Russian language. Any restrictions in this field would be incompatible with one of the basic principles of the Kazakhstan Constitution, which says, in part : "the state guarantees protection of the sphere of application of the language of inter-ethnic communication... ."

During my stay in Kazakhstan, I heard complaints from Kazakhs that the number of officials of Kazakh origin at the state, oblast and local level had been much lower in the past than could be expected considering the percentage of Kazakh citizens who are of Kazakh origin, and that there are still sectors of public life where the Kazakhs are under-represented. On the other hand, a frequent complaint on the part of the Russian minority was that since independence in nearly every vacancy which occurred a Kazakh was being appointed in the framework of what was considered to be a process of systematic "Kazakhisation" of the country.

The question of job distribution amongst ethnic groups in public administration is usually a highly sensitive one in a multi-ethnic society. In order to end such complaints one could, at least in theory, think of a system of quota in strict proportion to the percentage of the total population of each ethnic group. However, the creation of such a system would imply that ethnicity might prevail over ability, which should in my view remain, at any rate in principle, the primary criterion in the process of the selection of candidates. On the other hand, it is also clearly undesirable that in state administration, or in the regional or local level of the administration, one ethnic group would be represented much more strongly, or much less so, than the percentage of the population of such a group would suggest. It would then be difficult to believe that such an imbalance would not constitute a violation of article 17 of the Constitution

which states : "citizens of the Republic have equal rights to access to the state service. Requirements placed on a candidate for the position of a state employee are conditioned only by the character of the official duties." I recommend that the Government asks an independent study group composed of representatives of various ethnic minorities to analyse whether such serious imbalances do occur. If this would prove to be the case, a special effort would have to be made to remedy the situation.

Considering the sensitivity of the issue of de facto discrimination on ethnic grounds I would also recommend that, in addition to the existing human rights commission which has a more general task, a special board be created which will deal with complaints in this field. Apart from complaints about job discrimination, it could also deal with complaints about discrimination concerning access to higher education. I would suggest that the members of the board would each belong to a different ethnic group.

In the last two years, a considerable number of persons belonging to the Russian and German ethnic groups have left the country or have announced their intention to do so, notwithstanding the fact that the Kazakhstan Government has made it clear that it would regret their departure. Undoubtedly, disappointment about the economic difficulties which Kazakhstan is presently facing has played a considerable role. An economic upturn might reduce the outflow of these persons, many of whom could make a useful contribution to the development of Kazakhstan. However, it seems to me that other factors have also played a role, such as concerns about the stability of inter-ethnic relations in Kazakhstan and fears that the ethnic group to which they belong will face an uncertain future in the new state of Kazakhstan. Against this background, the steps I have advocated above have also a special relevance. They can contribute to giving these ethnic groups more reassurance about their future and may help to convince many of them to stay and to continue to make their contribution to the future of Kazakhstan.

When President Nazarbayev was in Moscow at the end of March of this year, he signed a memorandum "on the main principles for dealing with issues regarding the citizenship and the legal status of citizens of both states who reside permanently on the territory of the other state." One of these principles aims at the abolition of visa in travelling from Kazakhstan to Russia or vice versa, while another, even more important one refers to "a simplified procedure guaranteeing citizenship of the other state for citizens of each of the two states and their families who come to the Republic of Kazakhstan or the Russian Federation in order to permanently settle there." The President commented later on during his press conference "...if a Kazakh citizen moves to Russia he should be able to obtain citizenship there without question, without any delays; if he comes back to Kazakhstan, or a Russian decides to move to Kazakhstan permanently, he must be able to obtain citizenship right away."

I express the hope that a treaty along these lines can soon be concluded. It could provide an important additional psychological assurance to the members of the Russian ethnic group in Kazakhstan. They would then know that, if they would decide, for whatever reason, to return to Russia, they would not be strangers in their country of origin, but would be able to acquire Russian citizenship rapidly and easily. Paradoxically, this knowledge would help to make them decide to stay in Kazakhstan.

Permit me finally, Mr Minister, to summarise the conclusions I reached during my stay in Kazakhstan. Kazakhstan is a state where the main ethnic groups have lived together in harmony. There is no reason to believe that it would not be possible to ensure stable ethnic relations in the future. However, in order to achieve this aim, certain conditions are to be met. No ethnic group must strive for domination; persons of each ethnic group must have the conviction that there is equality amongst them, and that nobody will be condemned to second-rate citizenship because he or she belongs to a specific ethnic group. In his recent book "A Strategy for the Development of Kazakhstan as Sovereign State" President Nazarbayev has written, "Our state will pursue the principle of equal opportunity and equality before the law for all, regardless of national affiliation." I am convinced that if this principle is systematically implemented and judicially protected in all sectors of public life and in society as a whole, the stability of inter-ethnic relations in Kazakhstan can be assured.

These are the thoughts, Mr Minister, which, in accordance with my mandate, I should like to submit to you and your Government. I would greatly appreciate your comments.

Yours sincerely,

[signature]
Max van der Stoep
CSCE High Commissioner
on National Minorities

(Unofficial Translation)

No 2321

9 June 1994

Sir,

I would like to express my gratitude for your letter dated April 29, 1994 in which you summed up the result of your visit to Almaty.

We have examined attentively your evaluation of the situation and perspectives in the field of inter-ethnic relations in Kazakhstan. Your recommendations have real practical value. We, in Kazakhstan, attach great importance to the views of high officials of such an authoritative international organisation as CSCE which accumulates the experience of various countries in regulating inter-ethnic relations.

The creation of democratic society the main feature of which is harmony of inter-ethnic relations is our highest priority.

I would like to underline that the policy of Kazakhstan with reference to the national minorities is based on the firm commitment to the observance of the basic human rights and principles formulated in the major documents of the United Nations and the CSCE.

Allow me to assure you, Mr. High Commissioner, that your recommendations are taken into consideration in the process of elaborating Kazakhstan's policy in the sphere of inter-ethnic relations. Kazakhstan is open for constructive cooperation with the CSCE in the interests of ensuring stability in the region and prosperity of all Euro Asian Nations.

Yours sincerely,

For KANAI SAUBADAEV
[signature]

His Excellency
Mr. Max van der Stoel
CSCE High Commissioner on
National Minorities
The Hague