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Organization for Security and Co-operation in Europe ENGLISH only
Secretariat

Department for Conference Services

At the request of the OSCE High Commissioner on National Minorities, the attached letter dated 13 August 1996 to the Minister for Foreign Affairs of the Republic of Hungary, Mr. László Kovács, containing a number of recommendations, as well as the letter of reply, dated 27 October 1996, are being distributed to all OSCE delegations.

OSCE
High Commissioner
on National Minorities

His Excellency
Mr. László Kovacs
Minister for Foreign Affairs of the Republic of Hungary
BUDAPEST
Republic of Hungary

Reference:
909/96/L

The Hague
13 August 1996

Dear Mr. Minister,

Allow me first of all to express the thanks of the experts accompanying me and of myself for the help your Ministry has once again provided in such an effective manner in arranging a great number of meetings during our visit to your country on 19-21 May 1996. This greatly helped us in our task of acquiring relevant information regarding the minorities in Hungary. This was the last visit under the special arrangement between Hungary and Slovakia which provided for biannual meetings of experts to study the situation of the

Hungarian minority in Slovakia and of the Slovak minority in Hungary. Future visits to Hungary and Slovakia will be made by me without accompanying outside experts on the basis of article 11 c of my mandate as agreed upon by OSCE states in the 1992 Helsinki Document and in Chapter 3 of the Decisions of the CSCE Stockholm Ministerial Council of 1992.

The report which the experts presented to me on the basis of their visit in May leads me once again to present to your Government, as well as to the Government of Slovakia, a number of recommendations. But perhaps you will permit me first to make a number of remarks regarding the Joint Declaration that was adopted at the conference "Hungary and Hungarians Abroad" which took place in Budapest on 4-5 July 1996 and the subsequent Aide Memoire you sent to the Government of Slovakia regarding its criticism of this Declaration.

The Hungarian Aide Memoire stresses i.a. that the Declaration makes no mention of territorial autonomy based on ethnic criteria or of collective rights, and cannot be regarded as directed against the stability and territorial integrity of any state. Still, a number of formulations have led to concerns, especially in Slovakia and Romania, which might disappear in the light of further clarifications. In this context, I attach special importance to the assurance in your Aide Memoire that "the contents of the Joint Declaration of the meeting of 4-5 July 1996 do not deviate from the objectives and ambitions expressed in the foreign policy programme of the Hungarian Government published in 1994."

One of the concerns brought to my attention was the use of the term "Hungarian nation". In the light of the assurance quoted above I assume that the use of this term has to be seen in the context of the foreign policy programme of your Government of 1994 which states: "In the cultural sense, the Hungarian minorities beyond the borders are part of the Hungarian nation."

Another concern relates to financial support for Hungarian communities abroad, mentioned in article 10 of the Joint Declaration. Here again I consulted the 1994 foreign policy statement of your Government, in which governmental support is pledged for "organizations of Hungarians beyond the borders in the field of culture, adult education, the teaching of the mother tongue, scholarship, religion and the various trades". On this basis I would assume that your Government does not intend to give financial support to Hungarian parties in other states.

Much discussion was also caused by article 1 of the Joint Declaration, which states: "the principle that the Republic of Hungary, as enshrined in its Constitution, has to take responsibility towards the Hungarian minorities abroad shall be fully applied in shaping relations between Hungary and the Hungarian communities in neighbouring countries." The fear has even been expressed that Hungary intends to grant extraterritoriality to Hungarian legislation. My hope and expectation is that Hungary, in trying to promote the interests of Hungarian minorities in neighbouring countries, will respect the

limits drawn by international law, including bilateral treaties, and will equally respect the constitution and the laws of the neighbouring states.

The Declaration puts a strong emphasis on autonomy by stating in article 3: "The participants confirm that the establishment, in accordance with the existing European parties and in the spirit of international norms, of self-government and of autonomy represents a core issue as regards the preservation of the identity, the continuance and development as a community of Hungarians abroad, as well as the maintenance of their presence in their homeland." I should like to make the following comments. Autonomy can in my view have different forms; there is not one generally accepted concept of autonomy. Para. 35 of the OSCE 1990 Copenhagen Document mentions as one of the possible means to promote the ethnic, cultural, linguistic and religious identity of certain national minorities the establishment of "appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned." The Copenhagen Document therefore, while not trying to formulate a definition, mentions autonomy as an option, not as an obligation for states in which national minorities live. Neither do other OSCE documents, or any other international instruments, commit or oblige states to introduce autonomy. Against this background, and taking into account the reservations several states have regarding the concept of autonomy, it is in my view important not to underestimate the important role which laws can play in protecting and promoting the ethnic, cultural, linguistic and religious identity of national minorities.

I noted that article 3 of the Joint Declaration refers to autonomy as a means of settlement of the situation of the Hungarian communities abroad based on constitutional equality. In this context I permit myself to underline that even the right provided in article 11 of Recommendation 1201 of the Parliamentary Assembly of the Council of Europe, according to the expert interpretation of the European Commission for Democracy through Law (the Venice Commission), "does not imply for States either its acceptance of an organised ethnic entity within their territories or adherence to the concept of ethnic pluralism as a component of the people of the nation, a concept which might affect any unitarity of the State."

Finally, it is in my view important to keep in mind that persons belonging to national minorities can exercise their right as recognized by international norms and standards not to be assimilated against their will and their right to see their identity respected and ensured without keeping themselves isolated from the majority. In this respect I refer to the Preamble of the Treaty on Good neighbourliness and Friendly Cooperations between the Republic of Hungary and the Slovak Republic, which, while stressing the responsibility of the signatories for granting protection to and promoting preservation and deepening of the national or ethnic, cultural, religious and linguistic identity of the minorities living within their respective territories, also recognises that persons belonging to national minorities form and integral part of the society and of the State of the Contracting Party on whose territory they live.

May I now return, Mr. Minister, to the analysis of the situation of the Slovak minority in Hungary which the experts have made during their six visits to your country. It is of course obvious that this question can only be studied against the background of the general policy of your Government on minority issues. On the other hand, both the fact the persons belonging to the Slovak minority live dispersed throughout Hungarian territory and the high degree of assimilation of Slovaks in the past necessitate special efforts to strengthen the identity of the Slovak minority.

In this context, the role of the Hungarian-Slovak Expert Committee, created in January 1996 with the task to study the needs of the Slovak community in Hungary, can in my view be especially important. I would recommend that the Committee will be provided with sufficient funds to enable it to undertake research into the possibilities of strengthening the identity of the Slovak community in Hungary. In the 1994 Declaration on Government Policy I was struck by the following passage: "It is the chief condition of the strengthening of the identity of minorities that there should be real progress in minority education". I very much agree with this. Against this background, I also welcome your assurance in your letter to me of 16 May 1996 that your Government is ready to spend increasing amounts on improving the minority educational system. I also recognize the validity of your subsequent remarks considering the importance of initiatives of the relevant minority itself. In this field too the Hungarian-Slovak Expert Committee could play an especially important role by trying to stimulate such initiatives.

Regarding the parliamentary representation of ethnic minorities I welcome the assurance in your letter of 16 May 1996 that, even though there are already now persons belonging to national minorities who have seats in Parliament as representatives of various parties, your Government does not cease to aim at establishing guaranteed parliamentary mandates for ethnic minorities through the necessary amendments to the Constitution. I hope that, as long as this aim has not been realized, the Minority Interest Mediation Council will be enabled to play an important role in defending and promoting the interests of the various national minorities. In this respect, I would recommend that the Council will be provided with a small staff with the task to help its members to orient themselves regarding aspects of the legislative process which are of special relevance for persons belonging to minorities.

Mr. Minister, in our earlier correspondence, we have already exchanged views on a number of facets of the system of minority self-governments. I am aware that the system has innovative and unique elements, but that, like all other new institutions, it has to go through an inevitable process of trial and error. Above all it is in my view important to keep in mind that the system contains the seeds of further development, which in turn could lead to a further substantial increase in its importance for the various national minorities. I would hope especially that minority self-governments will be allotted an increasing number of competencies. In this respect I would recommend especially the educational field. Section 27 of the Minority Act opens this possibility: "Within its field of authority the minority local government - within the limits of its resources available - may establish and maintain institutions,

especially in such fields as a) local public education ... d) culture and general education ..." However, such a transfer of competencies could only function if the resources previously spent for the same purposes by other organs would be transferred as well. In fact, Mr. Minister, you made the same point when you referred in your letter of 16 May 1996 to the correlation between the amounts allocated directly to minority self-governments and the concrete self-ruling competencies they assume.

There is, however, in my view a difficulty in the financing of the local minority self-governments. One important source of income for the local minority self-governments is the contribution of local territorial governments. But experience has shown that, while in general there is a positive attitude of the local governments towards the minority self-governments, their financial means vary widely. Therefore, their contributions vary from nil to very substantial sums of money. It would in my view be better to build up a system of financial contributions for minority self-governments which would reduce their dependency on local territorial Government contributions, thereby lessening the disparities between them.

The creation of self-governments at a local and national level has inevitably led to questions regarding the division of competencies. The Minority Act has tried to deal with them, but some new ones have arisen. I would recommend that this problem be solved through the enactment of a number of amendments to the minority Act in the framework of the revision of the Act now envisaged by your Government and, where necessary, by amending various other legislative acts.

Finally permit me to express my pleasure at the opening in Bank on 3 August 1996 of a Slovak Education and Culture Centre. This project could be realized by contributions of 5 million Forints by your Government and 2 million Forints by the Slovak Government. This is an example of fruitful cooperation in the cultural field between the Hungarian and Slovak Governments which I would hope will be continued in both countries and expanded to include other fields, such as education and science.

Mr. Minister, I look forward with great interest to your reply to the various recommendations contained in this letter.

Yours sincerely,

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

**MINISTER
FOR FOREIGN AFFAIRS**

REPUBLIC OF HUNGARY

His Excellency
Mr. Max van der Stoep
OSCE High Commissioner
on National Minorities

The Hague

Budapest, October 27, 1996

Dear Mr. High Commissioner,

First of all, allow me to thank you for your letter of August 13 and the recommendations made therein. Apologizing for the delay in responding to your observations, I also take the opportunity to express once more my genuine appreciation for the excellent work the team of experts did throughout their many visits to Hungary.

Before turning to your recommendations regarding the situation of the Slovak minority in Hungary, let me briefly state that developments since the holding of the conference "Hungary and Hungarians abroad" have most certainly contributed to allaying possible misgivings that might have arisen in this connection. I would nonetheless like to say that I found your remarks on this subject unquestionable and in line with the policy of my Government.

As far as your recommendations regarding the situation of the Slovak minority in Hungary are concerned, the following comments would seem appropriate.

I would like to assure you that the Hungarian-Slovak Expert Committee has sufficient funds for its work. The Committee, assisted by the National Slovak Minority Self-government, has recently launched a comprehensive survey of the situation of the Slovak in Hungary with the aim of recording their needs and requirements. The National Slovak Minority Self-government is also in charge of the evaluation of the received data. The project is expected to be finished by the end of the year.

The Hungarian Government, in harmony with its Declaration on Government Policy, is determined to further improve the minority educational system. Education is indeed essential for the national minorities in preserving and strengthening their identity. The Public Education Law passed recently by the Hungarian Parliament handles the issue as a priority, thus making sure that the demands of the minority communities will be met properly with funds from the state budget.

The introduction of parliamentary representation of the ethnic minorities continues to be part of the Government's agenda. A draft amendment to the

Election Law has been prepared and is now the subject of further discussions in the Minority Interest Mediation Council. The aim of this amendment is to guarantee that national and ethnic minorities obtain parliamentary mandates in a preferential procedure.

Your recommendation regarding eventual institutionalization of the Minority Interest Mediation Council will be the subject of further considerations. However, the Hungarian Government holds the opinion that such a measure, not having been demanded so far by the respective minorities themselves, would prove necessary only if its efforts for the establishment of the preferential parliamentary representation failed.

Continual evaluation of the experience gathered from the functioning of the minority self-government system allows the Government to carry out the necessary corrections. I take the opportunity to inform you that, after having settled accommodation problems of the national minority self-government bodies last year, in the current year we reimbursed the local municipalities for any additional costs they might have incurred in connection with accommodation problems. Thus, in the case of about 100 settlements, mutually satisfying agreements could be reached. Moreover, minority self-governments will be granted higher allowances for their operational expenses in next year's state budget so that they can perform under better financial and technical circumstances. The state budget will also continue to subsidise their various projects through the Hungarian Public Foundation for National and Ethnic Minorities which had been founded to ensure that the distribution of funds is impartial and free of any interference from the Government.

I have pleasure in reporting to you that the Slovak Cultural Centre in Békéscsaba will open in November 1996. Its establishment was helped with a 20 million Forint subsidy by the Hungarian Government and with a real estate donation by the Municipality of Békéscsaba. The Slovak Government also joined the investment with 5 million Forints and the contributions of some Dutch foundations were considerable as well. I sincerely hope that your next visit to Hungary will give you an opportunity to see the Centre.

Finally, Mr. High Commissioner, allow me to congratulate and express my best wishes to you upon your winning the Wateler Peace Prize. You have fully merited this noble distinction thanks to your dedicated work to protect human rights, including minority rights.

I hope to welcome you soon again in Budapest,

Yours sincerely,

[signature]
(Kovács László)