



Deputy Prime Minister of the Slovak Republic
Rudolf Chmel

Bratislava, December 16, 2011
Č.: 16248/2011/PPVL

Dear Mr. Commissioner

on the 29th of November 2011, I have received your letter, which was sent following your visit to the Slovak Republic on the 26th and 27th of September 2011. Thank you for the opportunity to continue our constructive dialogue in this form and allow me to respond to the problems outlined by you in the field of protection and promotion of linguistic diversity in Slovakia.

At the beginning of your letter, you urge the Slovak authorities to continue their proactive approach to national minority rights. Of course I agree with the need for such a proactive approach of the Slovak Republic and I consider it the most effective way to promote human rights and national minority rights. The mandate of the current Slovak Government expires after early elections held on the 10th of March 2012. Due to the abovementioned reasons, few of the legislative and other measures presented in our personal meeting are being put into practice. The long-term national minority policy will be established as part of a national strategy for protecting and promoting human rights in the Slovak Republic, for which a blueprint was approved by the Government of the Slovak Republic on the 16th of November 2011. I have also prepared the implementing regulations to the Law on the Use of Minority Languages, notably the draft of the executive decree of the Government of the Slovak Republic for the designation of municipalities in minority languages, in which citizens belonging to national minorities constitute at least 20% of the population and the draft executive decree laying down certain details regarding the use of minority languages in official contact. Both of the executive decrees should be approved by the Slovak government shortly. The Slovak government should approve an amendment to the law on upbringing and education (Education Act). The object of this amendment should be, inter alia, a unifying and complementary adjustment of upbringing and education of national minorities. Other planned legislative tasks and other measures may not be finalized by the current Slovak government, due to the aforementioned reduced term. However, I consider it essential that the legal status of national minorities, including the protection and promotion of minority cultures, should be comprehensively covered by specific legislation, and I believe that the next government should take the necessary legislative measures in this direction.

Since the beginning of my mandate as Deputy Prime Minister for Human Rights and National Minorities, I have considered the protection and promotion of linguistic diversity in the Slovak Republic as a very important issue of human rights policy of the state. This support and protection can be ensured by establishing a clear legislative background that reflects the state's responsible approach to this issue.



Just as you have mentioned in your letter, the protection and promotion of linguistic diversity has to be based on the principle of ensuring effective equality between persons belonging to national minorities and those belonging to the majority population in all areas of economic, social, political and cultural life. This principle is emphasized by relevant international conventions, such as the Framework Convention for the Protection of National Minorities, the European Charter for Regional and Minority Languages and the International Covenant on Civil and Political rights.

The Constitution of the Slovak Republic lays down the basic rules on the use of languages, stipulating that the state language in Slovakia is the Slovak language. The Slovak Constitution leaves legislation on the use of minority languages to a special law. In 1995 the law on state language was passed followed by the law on the use of minority languages in 1999. Under the so-called Competence Act, the Ministry of Culture of the Slovak Republic is responsible for the State Language Law, and the Law on the Use of Minority Languages falls under the responsibility of the Deputy Prime Minister of the Slovak Republic for Human Rights and National Minorities.

I agree with the opinion of the Venice Commission that the relationship between the State Language Law and Law on the Use of Minority Languages is not clearly established, and it is contradictory. The principle of “*lex specialis legi generali derogat*” does not cover every aspect of the relationship between these laws. On the contrary, it appears that in the event of conflict between the Law on the Use of Minority Languages on the one hand and the Law on State Language on the other hand, the State Language Act prevails. During the preparation of the amendment to the State Language Act in 2010, I asserted, *inter alia*, to determine the relationship of these laws, so that it was clearly established that the Law on the Use of Minority Languages is a special provision in relation to the State Language Act in all aspects. However, the final wording of the amendment to the State Language Act retained the ambiguity in the relationship between the two pieces of legislation. This has greatly influenced the options for updating the Law on the Use of Minority Languages.

Amendments the Law on the Use of Minority Languages therefore could not solve the disturbed balance of these laws. My goal in revising the Law on the Use of Minority Languages was primarily the removal of some restrictions, especially in the territorial scope of the law. The proposal of the government to the Act lowered the thresholds for the use of minority languages from 20% to 15%, thereby improving the application of the linguistic rights of minorities with significantly lower representation. The Slovak National Council changed this arrangement in the sense that lowering of the threshold may be applied starting from the year 2021. With regard to ensuring the possibility of using minority languages in official communications, the final wording of the Act provides that public authorities create conditions for ensuring this right in an adequate method. However, the law does not specify what it means by “appropriate method” and it creates space for different interpretations.

Mainly due to the aforementioned deficiencies (i.e., imbalance between the State Language Act and the Law on Use of Minority Languages, the issues of territorial scope of the law and ensuring the possibility of using minority languages in official communications) I consider it necessary to take further measures in this area, which lie in amending the State Language Law and the Law on the Use of Minority Languages. I realize that the Slovak Republic has not



complied with all recommendations of the Venice Commission, which also justifies the need for amending the regulations. This amendment should also take account of yet unfulfilled recommendations of the Venice Commission and should increase legal certainty regarding the use of minority languages. It should be noted, however, that it is not realistic to expect the legislative process to be completed before the early parliamentary elections, due to the current internal political situation in Slovakia. I do consider it necessary that such an amendment is approved in the near future.

In conclusion, I would like to point out that, as Deputy Prime Minister for Human Rights and National Minorities, I promote a policy of incentives and I am convinced that the objectives pursued by the legislation on the use of minority languages can be achieved through cooperation and confidence-building measures, just as you mentioned in your letter and as expressed by the Venice Commission. That's why I have set up an inter-ministerial working group composed of representatives of central government bodies affected by the Law on the Use of Minority Languages, in order to solve application problems in the use of minority languages in official communications. I am also preparing a terminology guide in minority languages, with the help of external experts, in order to help officials in everyday practical application. I provide professional and methodological assistance to public authorities in preparing the application of the amendment of the Law on the Use of Minority Languages, in the form of opinions, recommendations as well as information lectures and publications. I consider the establishment, consolidation and continuous replenishment of terminology in the languages of national minorities, solving problems, including clarifying the interpretation of certain provisions of relevant laws and information activities, the primary role of each government of the Slovak Republic.

I hope the abovementioned information helped in creating a comprehensive picture of the current situation regarding the use of minority languages in Slovakia. At the same time I would like to ask for recommendations in connection with the removal of shortcomings in the legislation on the use of minority languages. I look forward to further cooperation and I remain with reverence,

Yours sincerely,

Mr.

Thomas Hammarberg

Commissioner for Human Rights

Council of Europe

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