

UNFULFILLED OBLIGATIONS: THE SITUATION OF THE ETHNIC HUNGARIAN MINORITY IN THE SLOVAK REPUBLIC

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I. INTRODUCTION

The Slovak Republic is a microcosm of the political and economic transformations occurring in Central and Eastern Europe following the 1989 collapse of the Soviet Union.¹ Although the change of political systems in the region occurred quite rapidly, it is clear that democratic states are not born overnight. Slovakia's tribulations underscore the stark choices that confront states of the former Soviet Block: whether to head down the difficult route of building a capitalist democracy or return to Soviet-style principles of a command economy and central political control. As the former communist countries evolve socially, politically, economically and legally, these challenges are coupled with international scrutiny of each state's domestic affairs. The prospect of accession into the European Union (EU) and the North Atlantic Treaty Organization (NATO) has forced former Soviet states to forego sovereign prerogatives and make way for increasing international influences and directives.

Torn between adopting western norms and adhering to familiar comforts of the past, the Slovak government² has been much more reluctant than its Czech counterpart to adopt a system of pragmatic capitalism and to decentralize state administration.³ The ruling coalition government, headed by Prime Minister Vladimir Meciar, has sent conflicting signals to Western officials regarding the state's aspirations to intergrate into the EU and NATO. The government's general commitment to democratic values has also been questioned.

The presence of a substantial Hungarian minority in Slovakia serves as a present day reminder of historical territorial disputes between

1. The names *Slovak Republic* and *Slovakia* are used interchangeably throughout this document and refer to the same entity.

2. References to the Slovak government are to the ruling governmental coalition, not the president. The government is comprised of the Movement for a Democratic Slovakia, a populist party headed by Prime Minister Meciar, the Slovak National Party, a nationalist party, and the Association for Slovak Workers, a party largely representing communist adherents. The Slovak President is Mr. Michal Kovac. See also SLOVAK. CONST., ch. 2, pt. VI, art. 108.

the republics of Slovakia and Hungary.³ The Treaty of Trianon, which left a substantial number of ethnic Hungarians on the Czecho-Slovak side of the Danube River, is debated within the political arena as if it were written in 1990, not 1920. Misrepresentation of history and the impoverishment of political life have resulted in a civil society where ethnic politics are at the forefront of the national consciousness. The Slovak government has effectively defined Slovak national culture predominantly along ethnic lines. Doctrinal and policy debates have incorporated powerful nationalist interests and, as a result, such concerns are reflected in government policy. One of the three parties comprising the government coalition is manifestly nationalistic and it has had a disproportionate influence on government policy since the legislative elections in the fall of 1994. This nationalist force is a source of many measures aimed directly at reinforcing the Slovak nation in Slovakia, often to the detriment of ethnic minorities.

It is premature to characterize the current legal position of the Hungarian minority as an emergency. Yet, given Slovakia's unproven economy and unstable political scene, the potential for the eruption of ethnic tensions between the Slovak majority and the Hungarian minority is clear.⁴ In the three years since the birth of the Slovak Republic, policies and practices unbecoming of a democratic and ambitious Central European state have surfaced. The legislative measures analyzed in this document have aroused strong emotions and constitute a potential cause for conflict among Slovak and Hungarian citizens, as well as between the Slovak Republic and the Republic of Hungary. Ethnic Hungarians perceive their language and culture as being under attack by the Slovak government. Surveys reveal that a significant number of Slovak citizens fear the

3. For simplicity, the terms *ethnic Hungarians* and *Hungarian minority* are used interchangeably to refer to Slovak citizens of Hungarian origin. Where the term *Hungarians* refers to Hungarian citizens living in Hungary, this will be made clear in the text. The issues presented in this report are of equal importance to the numerous other minorities within the Slovak Republic, as the principles involved are general and universal. The emphasis, nevertheless, is on the Hungarian minority. This focus is in accordance with the current political climate where the issue of minority rights is equivalent to the question of rights for ethnic Hungarians. All other minorities are either well off or poorly organized and geographically dispersed. An example of the first is the Ukrainian minority. An example of the second is the Roma minority.

4. Surveys used for this report are the following: RASIZMUS, XENOPHOBIA, ANTISEMITISMUS, A INTOLERENCIA VEDOMI OBYVATELOW SLOVENSKEJ REPUBLIKY [RACISM, XENOPHOBIA, ANTI-SEMITISM, AND INTOLERANCE IN THE SLOVAK REPUBLIC], Statisticky urad Slovenskej Republiky, Bratislava (Mar. 1995)[hereinafter RASIZMUS, XENOPHOBIA, etc.]; AUGUSTIN MAROK ET AL., SLOVAK-MAGYAR RELATIONS (1995); Sandor Marai Foundation & the Statistical Office of the Slovak Republic, *Selected Issues Viewed by Slovaks and Hungarians Living in Ethnically Mixed Regions of Southern Slovakia*, Bratislava (July 1994); PETER HUNCIK, ET AL., COUNTERPROOF (1994); PAVOL FRIC ET AL., THE HUNGARIAN MINORITY IN SLOVAKIA (1993).

outbreak of violence similar to that experienced in the former Yugoslavia. Ethnic tensions have dramatically heightened since 1993, with incidents of intimidation, verbal threats, and harassment of ethnic Hungarians increasing in frequency.

The purpose of this study is to assess whether the Slovak government is creating or aggravating a climate that is inimical to the Hungarian minority. This atmosphere may actually be conducive to an ethnic conflict or refugee situation. For this report, international agreements and standards are used to evaluate the situation. No lower standard than those set by the international community should be accepted in the Slovak Republic.

II. THE HUNGARIAN MINORITY IN THE SLOVAK REPUBLIC

The historical presence of Hungarians in what is now recognized as the Slovak sovereign state has strongly influenced present relations between the Slovak majority and the ethnic Hungarian minority. The social status of Hungarians in Slovakia's southern region has drastically shifted with the relocation of Hungary's northern border. Tracing the Hungarian presence over the years reveals that Hungarians formed part of the Hungarian Empire until 1918; constituted an ethnic minority in Czechoslovakia through the 1920s and 1930s; and comprised part of a majority group during the Hungarian occupation of southern Slovakia between 1938-1945. After World War II, Hungarians were either forced from the territory of Czechoslovakia or remained within the state and experienced severe discrimination for their affiliation with a foreign power during the war years. Historical factors that led to ethnic and geographic borders that do not correlate continue to serve as the impetus for conflict between ethnic Slovaks and Hungarians living in Slovakia. Mr. Gyozo Bauer, President of the Hungarian cultural organization, CSEMADOK, added:

[m]y father never moved from Samorin [a predominantly Hungarian town located in the south-west of Slovakia], but he lived in five countries due to border changes. No one asked him in his whole life which country he wanted to live in. No one has asked us to this day. It is not my decision and I have no power to change it. I do not wish to change it. All we want is the power to keep our community and our culture alive.⁵

5. Interview with Mr. Gyozo Bauer, President of the Hungarian cultural organization, CSEMADOK, in Samorin, Slovakia (July 16, 1996).

The historical volatility in the region has greatly contributed to shaping domestic legislative decisions and foreign policy choices of the government coalition ruling Slovakia today.

A. *The History of Hungarians in the Slovak Republic*

A brief historical discussion of the region is necessary in order to understand present day ethnic relations in Slovakia. Hungarians, who call themselves Magyars, arrived in Central Europe in the ninth century as one of many tribes from Asia, and they settled on the plains of Central and Eastern Europe.⁶ The Hungarians adopted Catholicism around the beginning of the twelfth century and founded a kingdom with frontiers that were to remain largely unmodified until 1918. The Hungarian Kingdom encompassed what is now recognized as Slovakia, which was then referred to as *Upper Hungary*. Slovaks, who had arrived in the region in the fourth and fifth centuries A.D., were subjects of the Hungarian Kingdom for centuries who were ruled by a predominantly Hungarian nobility. When the Ottoman Empire included large parts of Hungary, the Hungarian capital was moved to Bratislava, then called Pozsony, and ethnically dominated by Hungarians.⁷ By the end of the nineteenth century, Slovaks were essentially an illiterate and impoverished people.⁸ Ethnic Slovaks were underrepresented in government and plagued by *Magyarization*, the Hungarian government's plan to force the assimilation of ethnic Slovaks into Hungarian society. Economic life was dominated by ethnic Germans and Jews while political life was dominated by Hungarians.

During the twentieth century, Slovakia's southern region was governed by numerous sovereigns, including the Austro-Hungarian Empire, the independent Czechoslovak state, the Socialist Republic of Czechoslovakia, and the independent Slovak state. On October 28, 1918, the first Czechoslovak Republic was established. The Treaty of Trianon on June 4, 1920, designated the southern border of Czechoslovakia. Strategic and economic considerations led to a border set partly to coincide with the Danube River, creating a significant Hungarian minority within the new state.⁹ In 1938, the Vienna Arbitration Accords again attributed the southern part of Slovakia to Hungary. In 1939, Slovak leaders proclaimed an independent Slovak state. During World War II, Slovakia was under fascist rule, resulting in the Slovak National Uprising against

6. MAROK ET AL., *supra* note 4, at 5.

7. *Id.* at 6.

8. In 1914, 27% of Slovaks were illiterate compared with three percent of Czechs. See ANDRÉ & JEAN SELLIER, *ATLAS DES PEUPLES DE L'EUROPE CENTRALE* (1993).

9. This border was not officially recognized by Hungary until the bilateral friendship treaty between Hungary and Slovakia was ratified in 1996.

Nazi forces in August 1944. After World War II, Czechoslovakia was recreated in the shape of the Socialist Republic of Czechoslovakia (CSSR) to include the Hungarian dominated territory, again partly delineated by the Danube. Following the *Prague Spring* uprising against the communist regime in 1968, Hungarian troops were among the Soviet forces that entered the CSSR to suppress the rebellion. Some ethnic Hungarian inhabitants welcomed the Hungarian troops as liberators.

In 1990, the Czech and Slovak Federative Republic (CSFR) were formed to the displeasure of Slovak nationalists who hoped for the creation of an independent Slovak state. In 1992, Slovak nationalists won the parliamentary elections and voted to secede from the CSFR. They formed the Slovak Republic now in existence. Resistance to secession existed primarily in the Czech Republic and among ethnic Hungarians in the Slovak Republic.¹⁰ The current Slovak Republic is still delineated in part by the Danube, thus including in some regions a population of more than eighty percent Hungarians. In these regions, Slovaks constitute an ethnic minority. Since the *Velvet Divorce*, as the separation of the Slovak and Czech Republics has been coined, tensions between ethnic Hungarians and Slovaks have steadily increased in intensity. Mr. Ondrej Dostal, an expert on minority rights in Slovakia, noted that:

[d]ue to the split with the Czech Republic and thanks to the cultivated way of division, the Slovak nationalists have lost their main enemy, which until then used to be *Prague*. The nationalist part of the Slovak political scene has then logically opted for the Hungarian minority and its political representatives as its new target of confrontation policy making. . . . Slovakia has entered its first year of existence with the burden of an unsolved relationship — [the] relationship with its largest minority.¹¹

10. According to one survey, 81% of ethnic Hungarians opined that they would have voted against separation if a referendum had been held before the division of the CSFR. See FRIC ET AL., *supra* note 4, at 77.

11. DOSTAL, OD KONFRONTACIE K REZERVOVANOSTI, QUO VADIS SLOVENSKO 107 (1995).

B. Recent Developments Concerning the Situation of Ethnic Hungarians in Slovakia

In the days of socialist rule, Slovaks and Hungarians coexisted successfully on Slovak territory.¹² The fall of the communist regime in Slovakia, however, sounded the reveille for historic inter-ethnic prejudices. In light of possible EU and NATO integration, the Slovak government must develop lasting cooperation with its neighbors as part of the European Stability Pact. Nationalist politics, however, continue to strain bilateral relations between the republics of Hungary and Slovakia, thereby jeopardizing the possibility of western amalgamation.

1. Relations Between Ethnic Slovaks and Hungarians in Slovakia

Hungarians in Slovakia number approximately 600,000, constituting 11.5% of the population.¹³ Hungarians comprise the ethnic majority in 437 towns and, in another eighty-five communities, they comprise ten to fifty percent of the population.¹⁴ These 522 settlements form a compact area running along the southern border of the Slovak Republic, where ninety-eight percent of the Hungarian population in Slovakia live.¹⁵ In this area, an average of seventy percent of the local population is Hungarian.¹⁶

Surveys show that Hungarians in Slovakia are universally perceived as a distinct group with a common language, culture, values, and political interests.¹⁷ Hungarian political parties generally gather nearly one hundred percent of the votes of ethnic Hungarians. In issues where ethnic Hungarians' interests are at stake, the Hungarian vote is practically unanimous. Over eighty percent of ethnic Hungarians believe that there should be bilingual road signs. Ninety percent think that both the Hungarian and Slovak languages should be used in administration. Sixty percent are in favor of some kind of cultural autonomy. Among Slovaks, on the other hand, the majority is generally against these proposals. Sympathy among Slovaks for Hungarian claims is greater in southern Slovakia (in the ethnically commingled areas) than in northern Slovakia. Alternative schools, those including instruction in both the Slovak and

12. One survey indicates that this period was the one with the best relations between Slovaks and Hungarians. Approximately 40% of Slovaks and 20% of Hungarians expressed this opinion. See PETER HUNCIK ET AL., *COUNTERPROOF* (1994).

13. *Statement Issued on the Occasion of the Hungarian Convention in Komarno* (Jan. 4, 1994). These figures are based on the 1991 Slovak census.

14. *Id.*

15. *Id.*

16. *Id.*

17. See generally *supra* note 4.

Hungarian languages, are considered *useless* by fifty percent of the Hungarians but *useful* by sixty percent of Slovaks. Openness for a neighbor of the *opposite* ethnicity is also greater in the south than in the north. Two percent of Hungarians and fifteen percent of Slovaks are opposed to this prospect.¹⁸ While in the north, twenty-six percent of Slovaks would dislike having a Hungarian neighbor.¹⁹

The forecast for future relations varies. According to one survey, more than sixty percent of the population opine that Hungarians and Slovaks will continue to coexist well in Slovakia. According to another study, however, more than forty percent of either nationality think relations may short-circuit into violence similar to that in the former Yugoslavian territory.²⁰ Even among those who believe that relations between the two ethnic groups are presently good, more than thirty percent expressed such fears.²¹ According to a government survey, fifty percent of respondents perceived Hungarians as the greatest threat to the Slovak Republic.²² Some of the reasons stated for this perception were that the Hungarian nature comprises the traits of "desire to rule," "eternal restlessness," "inability to live in peace with other nations," "do not respect Slovakia," "hate Slovakia," and "want more rights than Slovaks."²³ Ethnic Hungarians were accused of wanting "a greater Hungary" and of threatening "[Slovak] sovereignty and territory."²⁴ Others stated that "they want to Magyarize Slovaks," "they want to break away," "they have territorial ambitions," "they provoke unrest," "they are ruining good relations," "they don't recognize tolerance," and "I don't trust them."²⁵

The Slovak government continues to harbor suspicions of Hungarian territorial claims to Slovakia's southern region. "They would like to have [the territory of southern Slovakia] back, that's for sure," asserted Mr. Juraj Zervan, Director of the Department of National Minorities at the Slovak Ministry of Foreign Affairs. "It is the official policy of Hungary to support [ethnic Hungarian] autonomy in neighboring countries, and to then have these areas hold a referendum on succession to Hungary to complete reunification to the motherland. It definitely

18. FRIC ET AL., *supra* note 4, at 73.

19. *Id.*

20. HUNCIK ET AL., *supra* note 4.

21. *Id.*

22. RASIZMUS, XENOPHOBIA, etc., *supra* note 4.

23. *Id.*

24. *Id.*

25. *Id.*

[constitutes] a destabilizing factor in Europe.”²⁶ The fear of Hungarian territorial aggression is deeply imbedded in Slovak consciousness and the Slovak government has successfully perpetuated this fear among its citizenry.²⁷ According to a 1994 survey, forty-two percent of citizens of Slovak nationality suspect that the “hidden goal of members of the Hungarian minority is a change of borders and annexation of southern areas of Slovakia to Hungary.”²⁸ In a July 1996 poll, thirty percent of Slovaks agreed with the assertion that the Hungarian minority supports the reunification of Slovakia’s southern region with Hungary, while sixty-three percent of Hungarians disagreed with this statement.²⁹ This survey reflects the feeling among Slovaks that ethnic Hungarians are not loyal to the Slovak state. This is a difficult accusation to disprove. “I live according to the Slovak Constitution. I work here and pay my taxes. I do nothing against the Slovak government. So, what is the problem? That I speak Hungarian? The question of loyalty isn’t proven because I don’t cry at the Slovak national anthem,” asserts Mr. Gyozo Bauer, President of the Hungarian cultural organization, CSEMADOK.³⁰ Mr. Bela Bugar, Chairman of the Hungarian Christian Democratic Party (MKDH), echoed this sentiment. He asserted that the Slovak government “does not say love your country, but love your state. For me, this is ridiculous. I can love a country but I cannot love a state.”³¹

Despite this antagonistic and distrustful atmosphere, violent outbreaks between ethnic Hungarians and Slovaks have been minimal. The most notable incident occurred on May 5, 1996, when a hand grenade exploded outside of the home of Mr. Bugar, a leading member of the

26. Interview with Mr. Juraj Zervan, Director of the Department of National Minorities Division, Slovak Ministry of Foreign Affairs, in Bratislava, Slovakia (July 11, 1996).

27. It should be noted, however, that Hungarian calls for autonomy in the southern region of Slovakia have resulted in increased skepticism among the Slovak public. The Hungarian political party, Coexistence, has been the most vocal proponent of territorial autonomy. Perhaps as a result, Coexistence Chairman, Miklos Duray, was found to be the most unpopular politician in Slovakia by a January 1996 poll, gathering sixty-four percent of the most negative responses. See Sharon Fisher, 13 OMRI DAILY DIG. II, (Jan. 18, 1996) (visited Oct. 27, 1997) <[http://www.omri. CZ/ publications/DD/index.Dhtml](http://www.omri.cz/publications/DD/index.Dhtml)> .

28. FOCUS AGENCY, ACTUAL PROBLEMS OF SLOVAKIA: REPORT FROM SOCIOLOGICAL RESEARCH (Dec. 1994).

29. Dana Soucova, *V Obciach Juzneho Slovenska Vladnu Dobre Vz'ahy, Avsak Tretina Obyvatel'ov sa Obava Konfliktu* [Citizens in Southern Slovakia Perceive a Good Relationship, However One-Third of Inhabitants Fear a Conflict]; See generally NARODNA OBRODA, July 17, 1996, at 5.

30. Interview with Mr. Gyozo Bauer, President of CSEMADOK, in Samorin, Slovakia (July 16, 1996).

31. Interview with Mr. Bela Bugar, Chairman of MKDH, in Bratislava, Slovakia (Aug. 1, 1996).

ethnic Hungarian opposition to the Slovak government. Responsibility for the bombing has yet to be determined.³² A previous violent attack occurred in May 1995 after a soccer match in northern Slovakia. Several ethnic Hungarians were thrown from a train while traveling home after the match.³³ Intimidation, threats, and harassment of members of the Hungarian minority are common. Many ethnic Hungarians are afraid to speak Hungarian in public when visiting northern areas of Slovakia for fear of reprisal. At the Hungarian-language high school in the capital city of Bratislava, attending students complain that they are frequently harassed on the street when speaking Hungarian. As one student noted:

Once my classmates and I were walking down Obchodna Ulica [Shop Street] and we were all speaking Hungarian. Four boys approached us and one of them slapped my classmate and told her to stop speaking Hungarian. I was very frightened. I have heard so many stories from [Hungarian] friends who have been pushed or punched in public because they were speaking Hungarian. . . . Sometimes when I walk to school from the bus station with a friend, people will shout 'Na Slovensku, po Slovensky!' [In Slovakia, in Slovak!]' at us.³⁴

Other common nationalist slogans include "Mad'ari za Dunaj! [Hungarians to the Other Side of the Danube River!]" and "Jete Slovensky Chlieb! [You Eat Slovak Bread!]," which implies that if one reaps the benefits from residing in Slovakia, such as consuming its agricultural goods, one should not complain about conditions within the state. Dislike of the Hungarian minority is generally higher among Slovak citizens living in the northern region of Slovakia where contact with members of the minority group is minimal.³⁵ Relations between Slovaks and Hungarians in the ethnically commingled areas of southern Slovakia are reportedly less antagonistic. One ethnic Hungarian observed:

In Samorin [a small town approximately twenty kilometers from Bratislava], where approximately thirty percent of the population is Slovak and seventy percent of the population is Hungarian, there are no problems or conflicts between us. The conflicts are mainly political. Political rhetoric

32. See generally NARODONA OBRODA, May 6, 1996.

33. UNITED STATES DEPT OF STATE, COUNTRY REPORT ON HUMAN RIGHTS FOR THE SLOVAK REPUBLIC 13 (1995).

34. Interview with an ethnic Hungarian student, in Bratislava, Slovakia (July 12, 1996).

35. See generally HUNCIK ET AL., *supra* note 4; PAVOL FRIC ET AL., *supra* note 4, at 76-

causes people who do not know any ethnic Hungarians to believe what government officials say about us — that we all want to return to Hungary and that we hate Slovaks. These accusations are not true. In Slovakia, like everywhere, there are extremists on both sides. Luckily this is only a small percentage.³⁶

In the years following the split of the Czech and Slovak Republics, nationalist forces have played an increasing role in Slovak politics. In the fall 1994 elections, seven parties or coalitions of parties won seats, but no party or coalition gained a clear majority. This forced the movement for a Democratic Slovakia (HZDS), a populist party headed by Prime Minister Meciar, to form a coalition government with the Slovak National Party (SNS), a nationalist party. As a result, government policy has been heavily influenced by the SNS over the past two years.³⁷ Nationalist views have been conducive or even instrumental in formulating most of the government measures passed by the National Council of the Slovak Republic (Slovak Parliament) in recent months, which seek to assimilate the Hungarian minority. Nationalist political forces have constructed a watershed between ethnic Hungarian parties and ethnic Slovak parties so that the most important political issue has become ethnicity, rather than concrete issues.³⁸ Extreme *solutions* to the problems confronting ethnic Hungarians have been suggested, such as: Hungarians should leave Slovakia, they should assimilate into the Slovak nation, or Slovaks in southern Slovakia should assimilate with Hungarians. All of these proposals fail to get widespread support, as more than sixty percent of either nationality opposes them.³⁹ As one ethnic Hungarian commented:

36. Interview with an ethnic Hungarian resident, in Samorin, Slovakia (June 28, 1996).

37. SNS stated on January 4, 1996, that it would like to intensify international cooperation, and that its first step in this direction would be to prepare a meeting with the chairman of the neo-Nazi Austrian Freedom Party, Jorg Haider. Pending items on the legislative agenda of the SNS include the passage of a local election law based on the "proportional principal according to nationality" and the reevaluation of constitutional Articles 15 (which prohibits the death penalty) and 34 (which articulates the rights of ethnic minorities). Sharon Fisher, *Slovak Coalition Party to Initiate Constitutional Changes*, 141 OMRI DAILY DIG. II (July 23, 1996)(last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

38. An example of how the fear of Hungarian expansion can be used as an argument against all kinds of international cooperation is the Carpathian Euroregion project of 1994. A number of regions in northern Slovakia wanted to cooperate with similar regions in other countries to the north of Slovakia. This was rejected by the government as a step toward a Hungarian takeover of the southern regions. By rejecting this project, the government prevented decentralization.

39. See generally *supra* note 4, for a list of surveys, which support this position.

[Prime Minister] Meciar often says: 'Those who do not like it here in Slovakia should leave.' Nobody can tell us to leave this land because we were born here, our parents were born here, our grandparents, et cetera. My family has been living on this land for 1100 years. Personally, I am not the type of person who could leave and start a new life somewhere else. I had a chance to leave in 1968, but I decided to stay. I am a local patriot. I will never leave here no matter how badly I am treated by my government.⁴⁰

Nationalist rhetoric and the implementation of domestic legislation that negatively affects the Hungarian minority has produced distrust of the government among ethnic Hungarians. An ethnic Hungarian resident of Dunajska Streda admitted:

We should have trust in our government, but we don't. How can we when so many new laws, like the State Language Law and the Law on Territorial Division, are passed which are one hundred percent targeted directly against us. It is nearly impossible for a Hungarian delegate in Parliament to pass a bill that attempts to guarantee our rights. So, this is not really a democracy. HZDS and SNS have their people everywhere, in all the decision making positions. This makes our voice silent.⁴¹

In response, the Slovak government denies allegations that recently promulgated legislation negatively affects national minorities. Mr. Branislav Lichardus, Slovak Ambassador to the United States, denied alleged ill-effects of the State Language Law, discussed *infra*, and stated that minority rights in Slovakia were among the highest in Europe. Mr. Lichardus noted that [ethnic Hungarians] can speak their own language, elect their own leaders, attend their own schools, read their own newspapers and attend their own cultural activities.⁴²

Following the split of the Czech and Slovak Republics, ethnic Hungarians have become politically organized. Ethnic Hungarians are represented by three political parties in Slovakia: Coexistence, MKDH, and the Hungarian Civic Party. The parliamentary elections in June 1990 marked the entry of ethnic Hungarian parties into political representation.

40. Interview with an ethnic Hungarian citizen, in Samorin, Slovakia (July 28, 1996).

41. Interview conducted with an ethnic Hungarian citizen, in Dunajska Streda, Slovakia (July 19, 1996).

42. Branislav Lichardus, Editorial, *Slovakia's Minorities*, N.Y. TIMES, Oct. 20, 1996, at E14.

During the 1994 elections, the three Hungarian parties joined forces, forming a broad coalition and gaining 10.18% of the vote and seventeen seats in Parliament.⁴³ The legal demands of the Hungarian coalition are articulated in the Komarno Agreement, a document written as the result of the controversial meeting of Hungarian representatives in the southern city of Komarno in 1994. "The Komarno Agreement states the clear legal demands of the Hungarian minority in Slovakia, ranging from local self-government to education. The Slovak government has largely ignored these demands and refuses to address the draft legislation proposed by the Hungarian coalition on these issues," asserts Mr. Bela Bugar of MKDH. "We would need a different government to achieve any of the goals of this document."⁴⁴

Cooperation and communication between HZDS and the Hungarian coalition is minimal.⁴⁵ The Slovak government has limited tolerance for political opposition among both Slovaks and Hungarians, and has utilized a variety of measures aimed at stifling dissent. In a July 1996 interview with the Hungarian newspaper, *Uj Szo*, Mr. Dusan Slobodnik of the Slovak Ministry of Foreign Affairs asserted that the Slovak government had the right to prohibit the existence of the Hungarian Coalition because individual Hungarian parties could form coalitions with other Slovak opposition groups.⁴⁶ A majority of legislation drafted by the Hungarian coalition is ignored and never addressed in Parliament. Mr. Bugar added:

The government takes into consideration the demands of the Hungarian coalition and they listen to them only as much as the Council of Europe and other international bodies are able to force them to listen. The demarches [concerning the observance of democratic principles] sent by the European Union and the United States had some results, but as long as the current government continues to maintain the same mind set, it is very difficult to get them to understand democratic rules. This is why we continue to need directives from [the West].⁴⁷

43. In Slovakia, coalitions of two or more parties must receive at least seven percent of the vote to gain parliamentary representation.

44. Interview with Mr. Bela Bugar, Chairman of MKDH, in Bratislava, Slovakia (Aug. 1, 1996).

45. The same is true of Slovak opposition parties and HZDS.

46. Gabriella Horvath, *Nem Masodrendu Allampolgarok a Szlovakiaban elo Magyarok* [*Hungarians Living in Slovakia Are Not Second-Class Citizens*], *UJ SZO*, July 17, 1996, at 1, 6. (Julia Domsitz trans).

47. Interview with Mr. Bela Bugar, Chairman of MKDH, in Bratislava, Slovakia (Aug. 1, 1996).

Opposition members of Parliament are not represented on parliamentary committees, a phenomenon that prompted the EU to issue a demarche to the Slovak government in 1995. The European Parliament noted, *inter alia*, its concern that "opposition parties represented in the Slovak [Parliament] are not properly represented in the leading bodies of the Parliament, as is sound democratic practice in all the Member states of the European Union and in other countries with democratic traditions."⁴⁸ Mr. Bugar noted:

In a normal parliamentary democracy, there would be a proportional representation in the parliamentary committees. For example, the Hungarian coalition comprises approximately ten percent of Parliament, therefore, we should make up ten percent of the parliamentary committees and should hold positions within these committees. . . . There is not a single vice-chairman or chairman on any parliamentary committee from the opposition. What's more, sometimes a certain party, like the Hungarian coalition, cannot participate during negotiations within a committee. For example, the Security Committee has no Hungarian member. This is also true of the Television Committee, the Radio Committee, and the Secret Service Committee.⁴⁹

After pledging to appoint a Hungarian coalition member to the Special Supervisory Bureau of the Slovak Intelligence Service, Mr. Arpad Matejka of HZDS said that MKDH Chairman, Bela Bugar, and Coexistence Chairman, Miklos Duray, were unacceptable candidates because HZDS holds them responsible for misleading statements made abroad.⁵⁰ Substantial changes have not yet been made in the composition of parliamentary committees with regard to adequate representation of opposition members, despite the urging of numerous Western officials.

The Slovak government is engaged in a struggle not only over the extent to which minority rights should be granted, but also over the adoption of basic democratic governing principles. Mr. Laszlo Ollos of Hungarian Civic Party stated:

48. The European Parliament, Resolution on the need to respect human and democratic rights in the Slovak Republic. EUR. PARL. DOC. (D) (Nov. 16, 1995).

49. *Id.*

50. *Hungarian Coalition Representatives Meet With HZDS*, DAILY NEWS MONITOR/TASR, June 28, 1996, at 5. See also Joe Cook, *Slovak Law Threatens Human Rights*, GUARDIAN, Apr. 12, 1996, at O13.

Here in Slovakia, there are not left/right parties. There's democratic and anti-democratic parties. There is a constitutional struggle over what type of political system we want as a nation and, to make things more difficult, there is a large national minority. Slovakia is located in an important geopolitical position, yet the people have a low level of political culture given that we have had little history of a civil political climate. This is a period of Enlightenment here. It is the first influx of Western ideas, culture, political and economic philosophies.⁵¹

The EU and the United States have repeatedly urged the Slovak government to put greater emphasis on the toleration of diverse opinions and full support for constitutional rights. Democratic progress and free-market transformation are vital to the acceptance of Slovakia into the trans-Atlantic community and other Western institutions.

Discussion of ethnic Hungarian rights frequently returns to a revision of historic events that have scarred the memories of members of the Slovak government. When confronted with a question about the use of the Hungarian language or access to Hungarian language education in Slovakia, Slovak government officials often reframe the issue as one of ethnic Slovak rights in Hungary. This sentiment is revealed upon the expression of dissent or discontentment among ethnic Hungarians. "We must not forget the forced assimilation of Slovaks into Hungarian society. There were 400,000 ethnic Slovaks in Hungary at one time. Now there are only 110,000. There is only one school for Slovaks in Hungary. There is no reciprocity," commented Mr. Juraj Zervan of the Ministry of Foreign Affairs.⁵² Evidence of the Hungarian government's mistreatment of the Slovak minority is used to justify the Slovak government's own assimilationist policies toward the Hungarian minority in Slovakia. Mr. Slobodnik evidenced this assumption in a recent newspaper interview:

If Hungary would treat their minorities better and won't assimilate them as they did in the 1920s and 1930s and will apologize for this activity, we can discuss the issue of our [official language policy] with them. . . . There are no Hungarians in Slovakia that have been assimilated in southern Slovakia.⁵³

51. Interview with Mr. Laszlo Ollos, Hungarian Civic Party member and Professor of Philosophy at the Nitra Pedagogical College, in Samorin, Slovakia (July 23, 1996).

52. Interview with Mr. Juraj Zervan, Director of the Department of National Minorities Division, Slovak Ministry of Foreign Affairs, in Bratislava, Slovakia (July 11, 1996).

53. Horvath, *supra* note 46.

2. The Relationship Between the Slovak Republic and the Republic of Hungary

Hungarian and Slovak history places a strain on present relations between the two states. The end of communism revived historic animosities between the two neighbors, and ethnic politics have taken center stage. As stabilization of bilateral relations is a prerequisite to entry into both the EU and NATO, the two states have attempted to appease Western officials by entering into a friendship treaty. Historic tensions, however, have not subsided with ratification of the treaty, and ethnic politics continue to dominate relations between Slovakia and Hungary.

The issue of the Gabčíkovo-Nagymaros Barrage System continues to strain the tenuous cooperation established between the two governments over the past three years. A treaty was signed on September 16, 1977 between the People's Republic of Hungary and the Czechoslovak Socialist Republic to jointly construct a dam and barrage systems on these two locations.⁵⁴ In the late eighties, Hungary suspended construction at Nagymaros primarily on economic grounds.⁵⁵ In chronological order, CSSR, the CSFR and the Slovak Republic unilaterally pursued the construction and operation of the systems. On May 19, 1992, Hungary officially terminated the treaty. The termination was partly due to ecological and environmental considerations.⁵⁶ In addition, the Hungarian government's decision to withdraw from the agreement was influenced by the fact that large numbers of ethnic Hungarians on the Slovak side of the Danube River would be displaced by construction of the project.⁵⁷ A breach of contract claim is currently pending before the International Court of Justice and will be heard in February 1997 unless the two countries reach an out of court settlement. In the three rounds of negotiations to date, the two states have not come any closer to reaching an equitable settlement.⁵⁸

Between 1990 and 1992, a nationalist regime in the Republic of Hungary prevented closer bilateral contact,⁵⁹ and from 1992 onward,

54. See generally Treaty on the Construction and Joint Operation of the Gabčíkovo-Nagymaros Barrage System, Sept. 16, 1977, Hungarian People's Republic - Socialist Republic of Czech.

55. MAROK ET AL., *supra* note 4, at 70.

56. *Id.*

57. *Id.*

58. See Sharon Fisher, *Slovakia, Hungary, Austria Deepen Ties*, 214 OMRI DAILY DIG. II (Nov. 5, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

59. The Hungarian Prime Minister during this period, Mr. Jozsef Antall, claimed that he considered himself the Prime Minister of fifteen million Hungarians, five million more than live

Slovak Prime Minister Meciar was reluctant to negotiate. Tensions between the two states heightened again in 1993 when Slovakia applied for membership to the Council of Europe. Hungary threatened to veto Slovakia's membership in the Council of Europe, noting that Slovakia had not ratified several international documents aimed at the protection of national minorities. Due to pressure from the EU countries and pledges from the Slovak government that such legislation would be passed, Hungarian representatives abstained from the vote.⁶⁰

In April 1994, interim Prime Minister Jozef Moravcik met with his Hungarian counterpart at the border towns of Komarno and Komarom to discuss bilateral issues. At this meeting, it was decided that a joint committee should be set up to identify Slovak-Hungarian bilateral problems. Drafting of a treaty commenced, resulting in the Slovak-Hungarian Basic Treaty (SHBT).⁶¹ In the treaty, Hungary wanted guarantees providing for Hungarian minority rights in Slovakia, and Slovakia sought confirmation of the inviolability of its borders.

After extensive negotiations, Prime Ministers Meciar and Gyula Horn signed the SHBT on March 19, 1995. Although the Hungarian Parliament ratified the treaty on June 13, 1995, the Slovak Parliament repeatedly delayed ratification of the bilateral treaty until March 26, 1996.⁶² In order to gain sufficient support for the SHBT in the Slovak Parliament, Prime Minister Meciar's HZDS party succumbed to the demands of the far-right SNS. The SNS insisted that, in return for the party's support, a package of hard-line legislation concerning anti-subversion measures, states of emergency, local elections, and education would quickly be addressed by the Slovak Parliament. Indeed, shortly before passage of the SHBT, the Slovak Parliament adopted the Law on the

within the territorial boundaries of Hungary. This prompted outrage from the governments of both Romania and Slovakia and perpetuated distrust and fear of Hungarian territorial aggression. See Barry Newman, *How to Tether Centuries-Old Hatreds*, WALL ST. J., July 17, 1995, at A7.

60. Slovakia became a member of the Council of Europe on June 30, 1993. On January 30, 1996, Slovak Foreign Minister Juraj Schenk, accusing the Council of Europe of using a double standard in evaluating human rights standards, requested that the Council of Europe apply the same standard when evaluating the situation of ethnic minorities in a new or established member country. Slovak Parliamentary Chairman Ivan Gasparovic proposed that the Council of Europe's Parliamentary Assembly compile a "White Book" on standard ethnic rights to ensure that all member nations are monitored with the same objective criteria. See Sharon Fisher, *Slovak Foreign Minister on Council of Europe*, 22 OMRI DAILY DIG., II, No. 22 (Jan. 31, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

61. Zmluva o dobrom susedstve a priatel'skej spolupraci medzi Slovenskou republikou a Mad'arskou republikou [Treaty on Good Neighborliness and Friendly Cooperation Between the Slovak Republic and the Republic of Hungary], Mar. 18, 1995, Slovak Republic - Republic of Hung (visited Oct. 17, 1997) <<http://law.gonzada.edu/library/ceedocs/slovhvn.htm>> .

62. On December 20, 1995, the Slovak Parliament voted to postpone decision until its January session. On January 30, 1996, ratification was again delayed until March 1996.

Protection of the Republic. This anti-subversion legislation, reminiscent of legislation promulgated under the communist regime, provoked a flurry of international criticism. This action overshadowed the long-awaited SHBT ratification and, as a result, the bilateral treaty failed to smooth decades of mistrust and tension between the two states.⁶³

In July 1996, a conference in Budapest titled, "Hungarians and Hungarians Living Abroad," once again illuminated the deep distrust between the neighboring states. The conference produced a document, signed by Hungarian officials and representatives of the ethnic Hungarian minorities in neighboring states, asserted that autonomy is a basic condition for maintaining the identity of Hungarians beyond Hungary's borders. By leaving *autonomy* undefined, the document's ambiguity led to renewed charges that the Hungarian government was threatening Slovak sovereignty. Slovak officials interpreted the document as a call for territorial self-rule in southern Slovakia. SNS members immediately accused the Hungarian government of "destabilizing the Central European region" by "supporting minorities' hazardous tendencies toward autonomy."⁶⁴ HZDS parliamentarians sent a written appeal to their counterparts in Hungary stressing that "Slovakia has had bad historical experiences from co-existence with Hungarians. In modern times, that was most pointedly shown between 1938-1945 during the occupation of southern parts of Slovakia by Hungary. Slovaks on occupied territories were second-rate citizens, deprived of basic human rights and freedoms."⁶⁵ Ethnic Hungarian parliamentarians who participated in the conference were accused of treasonous activity. Mr. Slobodnik of the Slovak Ministry of Foreign Affairs asserted that the document produced at the conference spoiled Slovakia's relationship with Hungary and violated the SHBT. Mr. Slobodnik accused "[t]he five Hungarian minority representatives [who attended the conference of] commit[ting] a crime by allying themselves with a foreign power"⁶⁶ Ms. Edit Bauer, a parliament member from the Coexistence party, attended the conference. She was subsequently

63. Some members of the Slovak Parliament wanted ratification of the SHBT conditional on receiving an apology from Hungary for the occupation of southern Slovakia during World War II. See generally NARODNA OBRODA, Feb. 8, 1996.

64. SNS Parliamentary Vice-Chairman, Martin Antal, stated that the Budapest conference was aimed at "causing national disturbances that would ultimately lead to a re-evaluation of current borders and [was] an effort to resurrect 'Greater Hungary' [in violation of the Treaty of Trianon]." *SNS Wants to Re-Debate Amended Penal Code in Parliament*, DAILY NEWS MONITOR/TASR, July 20, 1996, at 2.

65. The appeal recalled that Hungary has not apologized for Slovak occupation between 1938-1945 and asserted that, given this failure, Slovakia has no assurances that such an event will recur. *Slovak Parliamentarians Appeal to their Counterparts in Hungary*, DAILY NEWS MONITOR/TASR, July 12, 1996, at 2.

66. Horvath, *supra* note 46.

accused of treason, and Mr. Slobodnik threatened to remove her parliamentary immunity from prosecution.⁶⁷ Ms. Bauer assessed the situation as follows:

[The government] used this accusation to frighten and to threaten us. They know that if you analyze the Budapest document, you cannot find any evidence of treason. . . . They are creating such a hostile environment that people are becoming afraid to speak their minds in public. We are returning to the mind set of the communist era where people can only dissent in private, if at all.⁶⁸

The Hungarian government was quick to respond to Slovak condemnation of the conference. While asserting that the Budapest Document had no legal effect and was not intended to cause friction with neighboring countries, the Hungarian Foreign Ministry denied allegations that they violated the terms of the SHBT and international legal norms. "The Slovak reaction [to the Budapest Document] asserts that autonomy would lead to an ethnically pure region and separatist tendencies which would have a destabilizing effect on the territory, but other European examples refute these accusations," said Mr. Laszlo Kovacs, the Hungarian Minister of Foreign Affairs.⁶⁹ Nevertheless, the conference provided fuel for an already burning fire. Instead of offering concrete suggestions to the discussion of minority rights, the conference served only to create alarm among those already afraid of alleged Hungarian irredentism.

The Slovak government has been criticized by political opponents and other state governments for limiting political discourse both within and beyond Slovak borders. In a democratic society, individuals have the right to communicate freely with citizens of another state. In the case of the Hungarian minority, this is particularly important, as it allows for the exchange of ideas and information among members of an ethnic group. The importance of cross-border contacts by members of minority groups was specifically acknowledged in the SHBT. SHBT Article 12(2) supports cross-border contact between organizations and individuals. This provision states that:

67. Slovak Parliament members are granted immunity from prosecution or disciplinary sanction without the approval of the Slovak Parliament. SLOVK. CONST. Pt. 5, ch. 1, art. 78, § 2.

68. Interview with Ms. Edit Bauer, Slovak Parliamentarian for the Coexistence Party, in Samorin, Slovakia (July 16, 1996).

69. Laszlo Kovacs, Statement of the Hungarian Foreign Ministry (July 10, 1996)(Ildiko Domsitz trans).

[I]n the opinion of the Contracting Parties, the basic form of co-operation between their countries in the cultural, scientific and educational fields is co-operation between institutions, organizations, associations, unions, municipalities and local governments, the groups established on the basis of civic initiatives and co-operation between individuals based on mutual needs and interests. On the basis of the respective agreements and programs, they shall promote initiatives of the state, social and private institutions, organizations and associations and natural persons serving to advance their mutual knowledge and to bring them closer to one another.⁷⁰

Given the SHBT's binding nature upon the Slovak government, respect for members of the Hungarian minority to maintain contacts in Hungary should be supported absent clear and compelling evidence of subversive activity. Respect for cross-border contact is also supported in the Framework Convention on the Protection of National Minorities (FCNM). Article 17(1) states:

The parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other states, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.⁷¹

The Council of Europe's European Charter on Regional or Minority Languages Article 14(a) also encourages trans-frontier exchanges by "foster[ing] contacts between the users of the same language in the state concerned in the fields of culture, education, information, vocational training and permanent education."⁷²

Attendance at a meeting in Hungary where some form of autonomy was discussed does not *per se* threaten the territorial integrity of the Slovak Republic. Accusing ethnic Hungarian parliamentarians who attended the conference with prosecution for treason hardly serves to foster bilateral dialogue on minority rights. The governments on both sides of the Danube

70. SLOVAK HUNGARIAN BASIS TREATY, art. 12(2), Mar. 19, 1995, SOS (visited Oct. 27, 1997) <<http://www.eanet.sk/medza/95/mar/0036.html>>.

71. FRAMEWORK CONVENTION ON THE PROTECTION OF NATIONAL MINORITIES, art. 17(1), Excerpts from The Framework Convention (Report 24 Sept. 1, 1997) <<http://www.Cde.Cu5e/raoul/min-iin.html>> [hereinafter FCNM].

72. European Charter on Regional or Minority Languages, 1992 Council of Europe, Europ. T.S. No.148.

violated the spirit of the SHBT, and the conference failed to establish a constructive platform upon which a reasonable solution to existing ethnic tensions could be built. Nonetheless, cross-frontier communication should be encouraged on all levels between governments and individuals in order to improve transnational relations and cross-cultural understanding.

III. SYSTEM OF MINORITY PROTECTION

During the past three years, Slovakia has struggled to develop a constitutionally-based legal system. Given its tumultuous history, Slovakia has little historical guidance to direct its efforts to establish a rule of law that equally protects each citizen. Furthermore, as a candidate for membership into both the EU and NATO, Slovakia faces the challenge of satisfying requirements set by the community of western European states. Ethnic Hungarians perceive their rights as being under attack by the Slovak government over the past three years, although the government continues to assert that Slovakia is one of the most generous states in Europe in terms of its protection of national minorities. Mr. Slobodnik of the Slovak Ministry of Foreign Affairs assessed the present situation of the Hungarian minority as follows:

Slovakia has the highest human rights standard in Europe. You can't find another country where there are minorities and they are treated as well as Hungarians are in Slovakia. Some politicians and journalists from the [Hungarian Coalition] forget how developed Hungarian schools are here in Slovakia. Where else can you find such a good school system? They also have theaters. There are two Hungarian theaters in Komarno and Kosice. So, what are they complaining about?⁷³

A. *Slovakia's Obligations Under the International System of Human Rights Protection*

In analyzing the legal status of the Hungarian minority in the Slovak Republic, the minority's rights under the international system of human rights and Slovakia's municipal law must be evaluated. Slovakia has undertaken the responsibilities of ensuring internationally recognized human rights standards through its ratification of numerous international treaties, declarations and covenants. The effect of these instruments within

73. Gabriella Horvath, *Nem Masodrendu Allampolgarok a Szlovakiaban elo Magyarok* [Hungarian Living in Slovakia Are Not Second-Class Citizens], UJ SZO, July 17, 1996, at 1, 6. (Julia Domsitz trans).

Slovak borders, however, remains somewhat ambiguous and ratification of these documents has not resulted in the realization of the rights and freedoms protected therein within the domestic arena.

Slovakia is a state party to most human rights instruments.⁷⁴ Several of these documents oblige the Slovak government to take affirmative steps to protect all individuals within its borders and to make changes within its domestic arena to conform with international legal norms. The three most relevant international documents ratified by the Slovak government with regard to the protection of ethnic minorities are the European Convention on the Protection of Human Rights (ECHR) (ratified by Slovakia on March 18, 1992),⁷⁵ the International Covenant on Civil and Political Rights (CCPR) (ratified by the Slovak Republic on May 28, 1993), and the FCNM (ratified by Slovakia on June 21, 1995). Despite official proclamations by the Slovak government regarding their adherence to internationally accepted principles of human rights, ratification has not resulted in municipal legislation that equally protects all citizens. In contrast, the current trend of domestic legislation has attracted international criticism and has brought into question, rather than confirmed, Slovakia's commitment to the letter and spirit of the various documents.

Several major achievements of international human rights instruments in Slovakia must be noted. The most important success is the ability of the instruments to affect and direct government policy. Ratification of various international human rights documents from the Council of Europe and the United Nations forced the Slovak government to consider the provisions contained in those documents and find arguments to support facial compliance with their terms. International instruments set limits on the Slovak government's ability to pass restrictive legislation and serve to direct foreign policy decisions. For example, the Slovak government consulted international experts, such as the Organization for Security and Cooperation in Europe's (OSCE) High Commissioner for National Minorities, to review and comment upon draft domestic legislation affecting minorities. An International Law Division within the Slovak Ministry of Foreign Affairs was established within the past year to

74. *See generally* The relevant international documents ratified by the Slovak Republic include the European Convention on the Protection of Human Rights (ratified by Slovakia on Mar. 18, 1992), the FCNM (ratified by Slovakia on June 21, 1995), and the International Covenant on Civil and Political Rights (ratified by the Slovak Republic on May 28, 1993), the Convention on the Rights of the Child (ratified on Jan. 1, 1993), UNESCO Convention Against Discrimination in Education (ratified on Mar. 31, 1993), the International Covenant on Social, Economic and Cultural Rights (ratified on May 28, 1993), and the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities.

75. ECHR Protocols 1 through 10 have also been ratified.

evaluate domestic compliance with international obligations. International human rights instruments strongly influence Slovakia's political climate. Positive pressure has been exerted upon the government by members of the Hungarian minority to ensure state fulfillment of its obligations under ratified human rights documents. Slovak political discourse is consumed by various, and often conflicting, interpretations of the precise obligations embodied in these documents and their relation to municipal law. Despite the lack of consensus, such dialogue is a healthy exercise that encourages Slovakia's democratic transformation.

The non-realization of the protections granted in the aforementioned documents is a product of the general ambiguity surrounding the role of international instruments within the domestic arena. The Slovak Constitution does not contain a special provision defining the relationship between ratified international documents in general and the municipal legal system. The text of international treaties and documents is published along with all domestic legislation in the Collection of Laws of the Slovak Republic.⁷⁶ Because of this fact, Constitutional Court Judge Jan Klucka asserts that the relationship between international and municipal law is based on the monistic principle which grants international law primacy over municipal law and the state constitution in Slovak courts.⁷⁷ Mr. Jozavice of the International Law Department of the Slovak Ministry of Foreign Affairs is less clear about the status of treaties in Slovak domestic law. He opined that:

[t]here is currently no answer to whether or not treaties are self-executing. On one hand, it has been suggested that they are not because it is only through [municipal] law that rights can be proscribed to a citizen. It seems necessary, therefore, to adopt a specific law implementing the stipulation contained in the treaty. On the other hand, this interpretation is in conflict with Article 11 of the Slovak Constitution which stipulates that international treaties take priority over domestic provisions. In fact, international legal documents are treated the same as municipal legislation and published in the Collection of Laws like all other laws of Parliament.⁷⁸

76. Collection of Laws of the Slov. Rep., Law No. 1/1993.

77. Interview with Judge Jan Klucka, Slovak Constitutional Court, in Kosice, Slovakia (July 18, 1996).

78. Interview with Mr. Milan Jozavice, International Law Division of the Ministry of Foreign Affairs, in Bratislava, Slovakia (July 15, 1996).

Chapter 9, Article 153 of the Slovak Constitution also concerns the incorporation of international obligations. Article 153 provides that Slovakia "shall be a successor to all rights and duties ensuing from international treaties" The question arises, however, as to whether this provision is a de facto ratification of international documents.

While not including any express provision on the authority of international law in general, the Slovak Constitution does provide for the conditional authority of international human rights instruments. Article 11 mandates that before any state authority determines a question involving the fundamental rights and freedoms of citizens, a comparison of international and municipal law must be made to determine which system grants broader rights. If the international document is broader in scope and encompasses greater freedoms, that provision governs the domestic decision. Judge Klucka stated that, in this sense, the role international human rights law plays within Slovak borders is very clear. "There is no autonomous Slovak approach to defining human rights," asserts Judge Klucka. "The courts, and presumably the Parliament, must consider internationally accepted human rights definitions."⁷⁹ Mr. Branislav Lichardus, Slovak Ambassador to the United States, recently opined that Slovakia "is one of the leading European countries in terms of protection of the rights of ethnic minorities" because "[i]t is one of the few European countries where international treaties on human rights take precedence over its own laws, provided they secure greater rights and freedoms."⁸⁰ As Mr. Bugar of MKDH noted:

The Slovak government has repeatedly asserted that national minorities living in Slovakia have the highest standard of minority rights in Europe. How can they say this when our legislation violates the Articles of our own Constitution? In Slovakia, the government does not give rights above the Constitution but rather, they take away these guarantees through the promulgation of domestic legislation. So how can they speak about rights above the standard? [Ethnic Hungarians] are not asking for new, additional rights. We only want to maintain what we have

79. Interview with Judge Jan Klucka, Slovak Constitutional Court, in Kosice, Slovakia (July 18, 1996).

80. Branislav Lichardus, Letter to the Editor, *Slovakia's Minorities*, N.Y. TIMES, Oct. 20, 1996, at E14.

had before. The government is taking away the system of rights we have had for years.⁸¹

One explanation for the present confusion about the role of international law derives from the fact that Slovakia has only been subject to international law for three years. As a result, the large majority of lawyers and judges are unfamiliar with international legal doctrines. Judge Klucka observed:

There is a need to learn about international standards. We have a forty year legal gap that we now need to fill very quickly. Three years is a short time for judges to gain practical skills in applying international standards. It is necessary for judges to be aware of [European] case-law in order to understand the legal meaning of international human rights provisions. Often there is no Slovak translation of cases or international materials and this prevents a deeper understanding of the legal principles involved.⁸²

Beyond the need for those working within the legal system to educate themselves about principles of international human rights law, Slovak citizens must familiarize themselves with the system of human-rights protection, as well as their right to take complaints against the government to the European Court of Human Rights. Mr. Ondrej Srebala of the Slovak Center for Human Rights noted that:

[t]he legal consciousness [of Slovak citizens] has been very damaged by the previous communist era. A certain amount of civic braveness is missing from our citizenry. The quick leap to democracy has caused some people to act childish and to retreat from our new democratic system. Citizens still don't know how to use democratic legal means. For example, it is considered impolite in Slovakia to make claims to the European Court [of Human Rights]. It is felt that our problems should be dealt with here, not abroad. It will take time for the people to learn that the European Court is also our court.⁸³

81. Interview with Mr. Bela Bugar, MKDH Chairman, in Bratislava, Slovakia (Aug. 1, 1996).

82. Interview with Judge Jan Klucka, Slovak Constitutional Court, in Kosice, Slovakia (July 18, 1996).

83. Interview with Mr. Ondrej Srebala, Director of the Slovak Center for Human Rights, in Bratislava, Slovakia (July 12, 1996).

Through ratification of the ECHR, the Slovak government has accepted the compulsory jurisdiction of the European Court of Human Rights. The right to individual petition before the European Commission for Human Rights is also recognized.⁸⁴ Slovakia has obliged itself to "secure to everyone within their jurisdiction the rights and freedoms" as defined by the ECHR. Ratification of the aforementioned documents must not be used as a pretext for state inaction on a domestic level with regard to the protection of human rights and must not be considered "an accelerated way of establishing [Slovakia's] democratic credentials."⁸⁵ Regarding the rights of national minorities, no lower standards than those set by the international community should be accepted in the Slovak Republic.

Municipal enforcement of the provisions of international human rights provisions is largely defined by the Slovak Constitutional Court. The 1992 Constitution of the Slovak Republic established a Constitutional Court which possesses the competence to hear appeals of final decisions by central government authorities, local government authorities, and local self-governmental bodies brought by individuals involving violations of fundamental rights and freedoms of citizens.⁸⁶ Cases can be brought before the Constitutional Court through a variety of means:

- 1) by one-fifth of the National Council members;
- 2) by the president;
- 3) by the government;
- 4) by any court; or
- 5) by the Attorney General.⁸⁷

There have only been six cases where the Slovak Constitutional Court has utilized provisions contained in international human rights documents to formulate its holding. This is out of a total of 2635 total cases heard by the Constitutional Court since 1993.⁸⁸

84. On March 4, 1996, the European Commission for Human Rights declared the application of Ladislav and Aurel Brezny against the Slovak Republic inadmissible. The application concerned restitution for property confiscated by the former Socialist Republic of Czechoslovakia. *See generally* EUR. COMM'N H.R. 23131/93, 106 (Mar. 3, 1996).

85. Michael O'Boyle, *Right to Speak and Associate Under Strasbourg Case-Law with Reference to Eastern and Central Europe*, 8 CONN. J. INT'L L. 263, 265 (1993).

86. SLOVK. CONST. art. 127.

87. SLOVK. CONST. art. 130. Currently, the constitutionality of the Slovak Language Law, as described below, is under consideration by the court.

88. Interview with Judge Jan Klucka, Slovak Constitutional Court, in Kosice, Slovakia (July 18, 1996).

B. Slovakia's Constitutional Framework for the Protection of National Minorities

While Slovakia must adhere to the principles of international human rights standards, its domestic policy must also comply with the constitution of the Slovak Republic adopted on September 3, 1991. While the Slovak Constitution confers rights unprecedented in the history of Slovakia, these rights are not inalienable as they may be amended by law.⁸⁹ The objective to protect individuals within state borders from arbitrary state power is not served by such a constitutional framework. The constitution largely fails to provide any real guarantees that the conferred rights may not be stripped away at the will of a parliamentary majority during times of economic hardship or political unrest.

The preamble to the constitution of the Slovak Republic immediately caused a stir among minority groups in Slovakia. It begins: "We the Slovak nation" This expression implies that only ethnic Slovaks are concerned by and awarded rights under the constitution, rather than all people residing within the borders of the Slovak Republic. This impression is confirmed by the following phrase "together with members of national minorities and ethnic groups," thus relegating national minorities to a secondary position. Ethnic Hungarians objected to the Constitution claiming that minorities cannot be said to have an equal position under the Slovak Constitution.

Chapter 2, Section 4, Article 34 of the constitution articulates the rights of national minorities and ethnic groups. The first two clauses of this article concern rights to be conferred upon minorities, and include provisions for the promotion of cultural heritage and language.⁹⁰ The constitution guarantees the right to education and official communication in minority languages.⁹¹ Both of these paragraphs, however, contain the

89. In the first 54 articles of the Slovak Constitution, guarantees are conferred and then made amendable by law 42 times. See John A. Young, *Human Rights and the Slovak Constitution*, Promoting HUMAN RIGHTS AND CIVIL SOCIETY IN CENTRAL AND EASTERN EUROPE NEWSLETTER, Apr. 1994, at 9.

90. SLOVK. CONST. art. 34, para. 1 reads:

Citizens of national minorities or ethnic groups in the Slovak Republic are guaranteed the development of particularly the rights to promote their cultural heritage with other citizens of the same national minority or ethnic group, receive and disseminate information in their mother tongues, form associations, and create and maintain educational and cultural institutions. Details thereof shall be fixed by law. (paraphrase). SLOVK. CONST. art. 34, para. 1

91. SLOVK. CONST. art. 34, para. 2 reads:

In addition to the right to learn the official language, the citizens of national minorities or ethnic groups shall, under provisions fixed by law, also be guaranteed: a) the right to be educated in a minority language, b) the right to use a minority language in

restrictive "to be fixed by law" phrases, making these provisions rather feeble constitutional rights. Furthermore, according to the final paragraph of Article 34, the exercise of the enumerated rights "may not threaten the sovereignty and territorial integrity of the Slovak Republic or discriminate against other citizens."⁹² This paragraph may provide a legal justification for any law containing discriminatory measures against minorities. A request by ethnic Hungarians for more Hungarian language schools or a plea by Ruthenians for more control of their own cultural affairs could be construed by some as threatening the sovereignty of the Slovak Republic and a parliamentary majority could circumvent and prohibit these attempts. Any measure detrimental to minorities can always be founded in the promotion of the interests of *other citizens*. Mr. Laszlo Pirovits of Hungarian Civic Party opined that:

[i]t is not at all possible to defend article 34 section 3 of the Constitution of the Slovak Republic[.] The question automatically arises whether the implementation of rights of another citizen, guaranteed by the Constitution, may [threaten the State's sovereignty of territorial integrity]. Since the article concerns individual and not collective rights, it is not in this context defensible at all. This codification is in conflict with the individual article 13, section 3 of the Constitution, according to which the legal definition of constitutional rights and freedoms must apply equally. On the other hand, a threat to sovereignty and territorial integrity of the republic also fulfills the actual essence of a criminal act, which would be the case for every subject. Such a provision violates the essence of the equality of rights before the law[.]⁹³

Section 34(3) is clearly in conflict with the letter and spirit of Article 34, which is meant to assure the rights of national minorities. The legislative and executive branches of government are thus, under the constitution, free to discriminate against minorities whenever a *threat* is perceived.

Given the prevalence of restrictive clauses throughout the Slovak Constitution, ethnic minorities are not ensured constitutional guarantees to the use of minority languages and their culture. Rather, the Slovak Constitution establishes a framework of minority protection which can be

official communications, c) the right to participate in decision making in matters affecting the national minorities and ethnic groups. SLOVK. CONST. art. 34, para. 2

92. SLOVK. CONST. art. 34, para. 3 (1993).

93. *Constitutionalism* (Transcript of a discussion held on January 28-29, 1993), in CONSTITUTIONALISM IN EAST CENTRAL EUROPE 106-7 (1994).

chiseled away in times of political or economic strife. In a state where ethnic Slovaks constitute approximately eighty-five percent of the population, the constitution should serve to safeguard ethnic minority rights from the will or tyranny of the majority. Given Slovakia's centralized political system, the potential for constitutional rights being supplanted by restrictive legislation is clear. This risk is particularly acute for minority culture and education, as public spending on these activities is directed from the state. The question is: Which rights are supreme — constitutional or statutory rights? Mr. Jozavice responds that: "In my opinion, the [rights granted in the] constitution should be enforced. It should set forth rights without qualification, without creating room for the legislature to undermine the role of the constitution itself. It suffers detail."⁹⁴ A reasonable reading of a state's constitution should lead to a determination that it is the supreme law of the land to be interpreted by a court with jurisdiction over such issues. The framework of the Slovak Constitution makes it unclear as to whether a parliamentary majority may restrict or even completely eradicate freedoms set forth therein.

C. Slovak Municipal Law Under International Human Rights and Slovak Constitutional Analysis

Slovak municipal legislation analyzed below calls into question Slovakia's commitment to democratic principles and internationally accepted human rights standards. Municipal laws are employed to analyze Slovak compliance with bilateral treaties and regional and universal human rights instruments ratified by the Slovak government. In addition, legislation is analyzed utilizing non-binding international documents that demonstrate developing custom within international human rights law.

1. The State Language Law

On November 15, 1995, the Slovak Parliament adopted the Slovak Language Law (The Language Law).⁹⁵ This law regulates the use of the State Language (Slovak) in Slovakia and provides for the protection of the language. The law has been perceived by many ethnic Hungarians and international critics alike, as threatening the future existence of the Hungarian language in Slovakia. Critics of the Language Law claim that it takes away the right to use the Hungarian language and other minority languages. It is important to note that, besides language, members of the Hungarian minority in the Slovak Republic do not differ greatly from

94. Interview with Mr. Milan Jozavice, International Law Department of the Slovak Ministry of Foreign Affairs, in Bratislava, Slovakia (July 15, 1996).

95. Zakon Narodnej rady Slovenskej republiky c. 270/1995 o statnom jazyku. [This law entered into effect on Jan. 1, 1996.]

ethnic Slovaks. Ethnic Hungarians do not have any racially distinctive features nor do they adhere to a different religion. It is language that unites members of the Hungarian minority. For this reason, any restriction on the right or opportunity to use the Hungarian language has a great effect on the cultural identity and integrity of the Hungarian community in Slovakia.

When the draft of the Language Law was submitted to the Slovak National Council on October 24, 1995, a *justification* statement outlining the objectives of the legislation was attached. This *justification* reveals that the Language Law is partly, if not wholly, intended as a means of *getting back* at Hungarians for past injustices. For example, the *justification* asserts that

[t]he Ancient Slovak language (alongside Hebrew, Greek and Latin) became the fourth language of liturgy and diplomacy in Europe. Forced Hungarianization during the time of historic Hungary, as well as between the years 1938 and 1945, when Hungary occupied a large part of Southern Slovakia, inflicted wounds that remain open to this day.⁹⁶

Mr. Juraj Zervan of the Ministry of Foreign Affairs asserted that "bilingualism is not usable for our country. It is the responsibility of persons first to feel part of the whole society, rather than to have allegiance to only a certain group."⁹⁷

Passage of the Language Law created a legal vacuum in relation to the use of minority languages. The recent legislation replaces the 1990 Law on the Official Language, a law premised upon the Language Law of the first Czechoslovak Republic of the inter-war years.⁹⁸ By replacing the 1990 legislation, the Language Law takes away certain rights concerning minority languages and fails to confer new ones. The disequilibrium created is not balanced by a corresponding law on minority languages. It is obscured where and under what circumstances usage of the Hungarian language is legally permissible. Although the Slovak government assured

96. Text attached to the Draft-law on the state Language as submitted to the Slovak Parliament, Oct. 24, 1995. Translation of this document was provided by the Hungarian Civic Party.

97. Interview with Mr. Juraj Zervan, Director of the Department of National Minorities Division, Slovak Ministry of Foreign Affairs, in Bratislava, Slovakia (July 11, 1996).

98. See Language Law, para. 12: Law 428/1990 (declaring that "[the law] on the official language of the Slovak Republic is made void." It is significant to note the change from an "official" language to the further reaching concept of a *state* language. This modification suggests that the Language Law is more encompassing than the Law on the Official Language. This alteration is questionable in a state that is multi-ethnic.

the OSCE High Commissioner for National Minorities that legislation on the use of minority languages would soon follow passage of the Language Law,⁹⁹ such a measure has yet to even be discussed in Parliament despite persistent urging by all minority communities in Slovakia.¹⁰⁰ As the year anniversary of enactment of the Language Law passes, there is still no official government draft for such legislation.¹⁰¹

The Slovak government is considering ratification of the European Charter on Regional or Minority Languages as an alternative to issuing a legislative measure on the use of minority languages.¹⁰² This document provides that signatory states will not place obstacles in the way of promoting minority languages. Provisions for the teaching and studying of minority languages at all appropriate levels are also included.¹⁰³ The Ministry of Culture, however, proposed an alternative to ratification of this Charter. Rather than a specific law on minority language use, the Ministry suggested promulgating a law on the relationship between citizens and state administrative authorities in local offices.¹⁰⁴ The proposal would include a provision stating that Slovak is the language to be used in official contacts throughout the state unless a person could prove that he or she was not able to learn Slovak for an objective reason.¹⁰⁵ A definition of an *objective reason* was not provided.

In light of the Slovak government's failure to propose a law on the use of minority languages as it promised last year, many ethnic Hungarians view the Language Law as the first step toward the elimination of Hungarian culture in Slovakia. One ethnic Hungarian resident of Zlaty Klasy noted:

The goal of the Slovak government is first to have us speak Slovak in official settings and then to have us speak Slovak in our schools until eventually Hungarian truly becomes a *kuchinska rec* [a kitchen language], a language only

99. See generally SME, Jan. 16, 1996.

100. On June 10, 1996, Czech, Ruthenian, Ukrainian, Hungarian and Bulgarian cultural associations submitted a joint proclamation criticizing the Slovak government for failing to pass a measure regulating the use of minority languages. See generally DAILY NEWS MONITOR/TASR, June 10, 1996.

101. In November 1996, the Slovak Nationalities Council rejected a draft law submitted by the Hungarian opposition parties. See Sharon Fisher, *Slovak Nationalities Council Rejects Minority Language Law*, OMRI DAILY DIGEST II, No. 22 (Nov. 22, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

102. See *supra* note 72

103. *Id.* art. 8.

104. See generally UJ SZO, Aug. 1, 1996, at 1.

105. *Id.*

spoken at home. That is why it is important to use the Hungarian language in a wider context because, if not, we will forget words and eventually adopt the Slovak language. This is what they want, for us to forget our language, and therefore, forget our culture.¹⁰⁶

The Language Law has been criticized largely due to its vagueness. The statute's ambiguity provides those who will apply the law the freedom of interpretation.¹⁰⁷ For example, Section 1(2) ("The State Language has a priority over other languages applied on the whole territory of the Slovak Republic")¹⁰⁸ and 1(4) ("The law does not regulate the usage of languages of national minorities and ethnic groups. Usage of those languages is regulated by separate laws") are potentially contradictory. While clause 1(2) states that Slovak has the priority, clause 1(4) states that other languages are not touched by the law.¹⁰⁹ In what sense, then, is the Slovak language supreme?

The Language Law does not regulate languages used in religious ceremonies. Section 1(3) states that "[t]he law does not regulate the usage of liturgic languages. Usage of those languages is arranged by the regulations of churches and religious communities." While the Language Law does not regulate church weddings, it is unclear whether the word "yes" or "I do" in a civil, non-church wedding ceremony can be spoken in Hungarian or whether the Language Law mandates that it be uttered in the state language. On June 26, 1996, when asked by a Hungarian Assembly member of the Council of Europe whether the Hungarian language could be used during official marriage ceremonies, Prime Minister Meciar asserted that marriage ceremonies could take place in any language since the freedom to speak any language is enjoyed by all.¹¹⁰ This statement implies that, under the Language Law, an ethnic Hungarian could say the Hungarian word *Igen [yes]* during a civil wedding ceremony. The Ministry of Culture, however, issued a directive stating the opposite conclusion. The Ministry of Culture asserts that the affirmation must be

106. Interview with an ethnic Hungarian resident, in *Zlaty Klasy*, Slovakia (June 30, 1996).

107. One local official interpreted the law as giving him the right to refuse an ethnic Hungarian to send a telegram in Hungarian. See generally *Democracy Seen at Risk in Bratislava*, INT'L HERALD TRIB., Dec. 26, 1995.

108. The translation of the Language Law quoted in this report was provided by the American Embassy in Bratislava.

109. Paragraph 2 was added in the final parliamentary debate on the law, which may explain the lack of reflection. This makeshift drafting style hardly makes for legal credibility.

110. Statement of Mr. Vladimir Meciar, Prime Minister of the Slovak Republic, Council of Europe Parliamentary Assembly, (June 26, 1996).

spoken in Slovak.¹¹¹ State interference in one of the most intimate of ceremonies is viewed as a direct attack on Hungarian culture by ethnic Hungarians. Mr. Bugar noted that:

This is how [the government] can provoke ethnic Hungarians. If my daughter wants to have a civil marriage and if the government forces her to use a language other than her mother tongue during such an intimate ceremony, I'm not a radical, but I think I would break the room into pieces.

Section 2(2) demands that each citizen have knowledge of the Slovak language as defined by the Ministry of Culture. This approach places full definitional control with a state organ. The potential for abuse of governmental discretion in this area may result in discrimination against Hungarians who may mispronounce words or may not have as extensive a vocabulary in Slovak as a native speaker.

Section 3(2) makes knowledge of the Slovak language a prerequisite for government employment. Section 3(1) and (2) indicate that all communications constituting official transaction, as well as all communications within government and administration workplaces must be conducted in Slovak.¹¹² While not precluding the use of other languages, the wording of Section 3 suggests that supplementary use of Slovak is compulsory in nearly all official matters. Moreover, Section 3(5) states that contact with the administration must be conducted in Slovak.¹¹³ This section mandates that, in order to use Hungarian during an official

111. Ministerstvo Kultury Slovenskej Republiky [Minister of Culture of the Slovak Republic], Cislo MK 551/96 - SSJaNP, (Mar. 1, 1996).

112. Language Law Section 3 reads:

[1] In the course of accomplishment of their duties, the state authorities and state organizations, the authorities of territorial self-administration and the authorities of public and legal institutions . . . the state language shall be, by those authorities, used compulsorily on the whole territory of the Slovak Republic. Demonstration of commensurate knowledge of the state language by word of mouth and writing is a qualification for being taken into service, or for entering a similar occupational relationship, as well as a prerequisite for accomplishing work agreed within specified job description at a public and legal authority.

[2] The employees and officials of the public and legal authorities, employees in transport and communications, as well as the armed forces officers, the officers of armed security corps, of other armed forces officers, of other armed corps and fire brigades, shall use the state language in contact on official lines.

Slovak Language Law §(3).

113. Slovak Language Law Section 3(5) states that "[w]ritten appeals addressed to the public and legal authorities shall be presented in the state language." Slovak Language Law § 3(5).

meeting, a Slovak interpreter must be present at all times and minutes must be kept in both Slovak and Hungarian. This requirement will undoubtedly cause problems in congregations where all participants are Hungarian, as is largely the case in municipalities throughout southern Slovakia. Section 3(5) also mandates that citizens would be obliged to submit a copy of every appeal in Slovak, which is an unnecessary obstacle where both the appellant and the officials have Hungarian as their first language.

In response to Section 3(5) of the Language Law, several mayors of towns located in southern Slovakia issued directives allowing for the use of both Slovak and Hungarian in official contacts despite Ministry of Culture claims that such action is illegal.¹¹⁴ The first local authority to take such action was Velka Maca, a village with approximately eighty-eight percent of its 2600 residents of Hungarian nationality. The declaration, unanimously passed by the local council, allows Hungarian to be used in official contacts, including at local offices, cultural events, doctor's offices, and stores. Numerous villages and towns in Slovakia's southern region have since followed Velka Maca's lead. Mayor Jozsef Szaraz of Cvory nad Zitavou, where four-fifths of more than 5000 people are ethnically Hungarian, refuted allegations that such directives were contrary to the Language Law. Mayor Szaraz asserted that such measures "simply enable the people to communicate in their mother tongue."¹¹⁵

Section 8(5) reads "[i]n proceedings with the public and legal authorities concerning contracts settling the involvement relations [sic], only the wording in the state language is acknowledged." This section may put ethnic Hungarian lawyers out of business. If two ethnic Hungarian business partners want to ensure the enforceability of their contract in a Slovak court, the Language Law mandates that the document be drafted in Slovak. Section 8(4), states that "[t]he contact of the medical care personnel is conducted, as a rule, in the state language; in case of a citizen or foreigner not having a command of the state language, also in the language in which mutual understanding with the patient is possible."¹¹⁶

In February 1996, four *language consultants* began working in three regional districts and in Bratislava to supervise observance of the language law, although monetary penalties for violating the law cannot be

114. Pavol Mudry, *Slovakia: Ethnic Hungarians Worried By Language Law*, INT'L PRESS SERVICE, Mar. 14, 1996. See also Samorin A Okolie/Somorja Es Videke [Samorin and the Surrounding Environment], Vseobecne Zavazne Nariadenie Mesta Samorin O Pouzivani Jazyka Narodnostnych Mensin Na Uzemi Mesto Samorin, Jan. 26, 1996. This is law of the town council of the town of Samorin allowing residents to use either the Slovak or Hungarian languages in official contacts.

115. *Id.*

116. For further issues upon which the Language Law touches, see sections below concerning legislation regulating education, names, road signs, and mass media.

issued until 1997. On March 12, 1996, the Hungarian daily, *Uj Szo*, published an interview with Dr. Andrej, an official language advisor to the Slovak Ministry of Culture for the Galanta and Dunajska Streda region. Dr. Andrej found that individuals living in these two regions were well-informed about the provisions of the Language Law and usually observed them. He cited only one village where the local chronicles were written only in Hungarian, and warned the village mayor that the village annals would have to be recorded in both Slovak and Hungarian.

Passage of the Language Law, with its stiff monetary penalties and restrictive provisions, has antagonized ethnic Hungarians. The Language Law has been used by Slovak citizens as a means of harassing ethnic Hungarians. In the town of Samorin, two individuals pretending to be language inspectors from the Ministry of Culture threatened local inhabitants with fines due to their public use of the Hungarian language.¹¹⁷ Although government officials proclaim that such behavior is criminal, no suspects have been detained. "It is as though the government has criminalized our language," complained one ethnic Hungarian.¹¹⁸ The law excludes penalizing individuals for violating its mandates, but imposes stiff monetary fines on businesses. Business owners could be fined up to 50,000 Slovak crowns (approximately \$1650) and business entities could be forced to pay up to 500,000 Slovak crowns (approximately \$16,500).¹¹⁹

The Language Law launched Slovakia into the international spotlight and provoked questioning of Slovakia's commitment to democratic principles. A United States Congressional Commission on Security and Cooperation in Europe wrote a letter to the Slovak Ambassador to the United States, Branislav Lichardus, stating that the *real intent* of the Language Law is "not merely to regulate the use of the Slovak language, but to restrict the freedom of speech in Slovakia."¹²⁰ Hungarian Ambassador to Slovakia, Mr. Jenő Boros, views the Language Law as the devaluation of multi- or bilingualism. He stated, "There is an old expression in this part of the world that says that the more languages you know, the better person you are. Now you hear a new expression: The more languages you know, the worse Slovak you are."¹²¹ The Slovak

117. See generally NOVY CAS, June 12, 1996, at 2.

118. Interview with an ethnic Hungarian citizen, in Samorin, Slovakia (July 2, 1996).

119. See Pavol Mudry, *Slovakia: Ethnic Hungarians Worried By Language Law*, INT'L PRESS SERVICE, Mar. 14, 1996.

120. James Morrison, *Selling Slovakia*, WASH. TIMES, Feb. 26, 1996, at A17. This letter was signed by Senators Alphonse D'Amato (NY-R), Frank Lautenberg (NJ-D), and Representatives Christopher Smith (NJ-R) and Steny Hoyer (MD-D).

121. Stephen Kinzer, *Democracy Seen At Risk In Bratislava*, INT'L HERALD TRIB., Dec. 28, 1995, at A1, 5.

government asserts that the Language Law is compatible with international human rights standards.¹²² The truth is, however, that not many states have state language laws. Moreover, most of the state language laws in existence take into consideration the protection of minority languages.¹²³ In other multilingual states where one language is dominant in numbers and a minority language is found primarily in one region, there are other solutions, such as a special administrative order for that region that do not require regulations to protect the dominant language. In yet other states, minority languages are given equal legal status to the dominant language.¹²⁴ None of these protective measures have been taken in Slovakia.

The Language Law's restrictiveness is contrary to both municipal legal principles and international norms. Most notably, the Language Law's prohibition of the use of minority languages in administrative contacts appears to conflict with both Slovak constitutional guarantees and express provisions contained in binding international instruments. Section 3 of the Language Law blatantly conflicts with the spirit of Article 34 of the Slovak Constitution. Article 34(3) reads:

in addition to the right to learn the official language, the citizens of national minorities or ethnic groups shall, under provisions fixed by law, also be guaranteed: a) the right to be educated in a minority language, b) the right to use a minority language in official communications, c) the right to participate in decision making in matters affecting the national minorities and ethnic groups.¹²⁵

This article clearly provides for the use of minority languages in administrative contacts. This guarantee, however, is subject to the restrictive "fixed by law" clause. The Language Law's constitutionality has been challenged and the issue is currently pending before the Constitutional Court. Constitutional Court Judge Klucka views the Language Law as creating a *legal gap* between itself and the constitutional guarantees.¹²⁶ If the constitution is to be given credibility and weight as the founding legal document in Slovakia's legal system, the Constitutional Court should hold that express constitutional guarantees are not to be

122. Justification, end of part II.

123. France, Lithuania, Belgium and Holland have language laws.

124. See, e.g., Finland.

125. SLOVK. CONST. art. 34(3).

126. Interview with Judge Jan Klucka, Slovak Constitutional Court, in Kosice, Slovakia (July 18, 1996).

limited, restricted, or eradicated by domestic legislation.¹²⁷ The right to use one's mother tongue in administrative affairs is not ensured in Slovakia because of the absence of any law on minority languages.

Minority language rights within the international human rights framework emerged at the beginning of the twentieth century and have increasingly gained recognition as a protected right. In the absence of provisions relating to the protection of minorities in the League of Nations era, a series of treaties were established to secure minority status during the inter-war years. These treaties largely incorporated the principles of non-discrimination and equality, the right to citizenship, the right of minorities to establish their own institutions, and a state obligation to provide an equitable share of financial support toward primary schools in minority languages when there was sufficient demand for such education.¹²⁸ Minority protection treaties during this period were largely patterned after the Polish Minority Protection Treaty of 1919. Article 7 of this treaty provided that "[n]o restriction shall be imposed on the free use by any Polish national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings."¹²⁹ This provision was also contained in the Czechoslovakian Minorities Treaty of 1919.¹³⁰ Guarantees contained in the treaties preempted municipal legislation that was contrary to the treaty provisions. Treaty ratification required states to take positive steps to comply with the rights embodied therein.

Beginning with the Charter of the United Nations (Charter), the focus shifted from minority protection granting specific rights to supporting the more general concept of non-discrimination. This concept is equally applicable to all individuals regardless of ethnic majority or minority status. Article 1(3) of the Charter provides for "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to . . . language . . ." in order to achieve international co-operation.¹³¹ The Universal Declaration of Human Rights

127. This statement should hold true unless the activity clearly threatens the sovereignty or territorial integrity of the state or discriminates against other citizens. See SLOVK. CONST. art. 34, para. 3. The use of the Hungarian language during official contacts does not reach this threshold.

128. See FERNAND DE VARENNES, *LANGUAGE, MINORITIES, AND HUMAN RIGHTS* 26 (1996).

129. For the full text of the Polish Minorities Treaty of 1919, see PATRICK THORNBERRY, *INTERNATIONAL LAW AND THE RIGHTS OF MINORITIES* (1991), (Appendix 1 is excerpted from *Protection of Linguistic, Racial, and Religious Minorities by the League of Nations*, IB MINORITIES. 1927.I.B.2. (Geneva, Aug. 1927)).

130. *Id.* at 41.

131. U.N. CHARTER art. 1, para 3.

(Declaration), in Article 2(1), also states that individuals are entitled to the rights and freedoms included in the Declaration without regard to language.¹³² Language is a ground upon which discrimination is prohibited under the ECHR Article 14.¹³³ This principle is again set forth in the CCPR in Article 2(1), and the International Covenant on Economic, Social, and Cultural Rights in Article 2(2).

The European Court of Human Rights in the *Belgian Linguistics Case* analyzed the general anti-discrimination provision contained in the ECHR.¹³⁴ The applicants were the parents of families in Belgium who applied for schooling on their behalf and on behalf of their children. The gravamen of their complaint was that, as French speakers, they wanted their children to be educated in French despite living in a region classified under Belgian law as Dutch-speaking. By law, schooling had to be conducted in the official language of the region. Thus, the Francophone applicants alleged, the state was discriminating against them by failing to provide schooling in their language in violation of Article 14.¹³⁵ The court held that legal and administrative distinctions that are objective and reasonable are not violative of the ECHR's anti-discrimination clause. In addition, the justifications must be proportional to the purposes of maintaining such distinctions. In light of this ruling, the Slovak government must have legitimate and balanced objectives for prohibiting the use of the Hungarian language in public administration to comply with Article 14.

International human rights customs with regard to minority language rights have evolved since the *Belgian Linguistics Case* was decided in 1968. Over the past two and a half decades several provisions have been drafted and ratified that convey to varying degrees the right to use minority languages in public administration. Legal or administrative justifications must not only be non-discriminatory, they must also comply with the terms and conditions of new binding instruments.¹³⁶ The most

132. Universal Declaration of Human Rights, G.A. Res. 217 A(III), U.N. GAOR, 3d Sess., Resolutions, Part 1, at 71 (1948).

133. European Convention on the Protection of Human Rights art. 14 (hereinafter ECHR) reads: "The enjoyment of rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." See also ECHR art. 5(2) (right to receive information on the reasons for arrest in a language one understands), *id.* art. 6 (the right to a fair and public hearing), *id.* art. 13 (the right to an effective remedy before a national authority).

134. *Relating to Certain Aspects of the Laws on the Usage of Languages in Belgium* [hereinafter the *Belgian Linguistics Case*], 6 Eur. Ct. H.R. (ser. A) (1968).

135. The parents also alleged violations of the First Protocol to the ECHR and ECHR Article 8.

136. The specific instruments are discussed in detail below.

significant instruments are the FCNM (1995) and the Recommendation of the Parliamentary Assembly of the Council of Europe No. 1201 (1993) (Recommendation 1201). Both of these documents contain provisions allowing for the use of minority language in contacts with local authorities in regions where *substantial numbers* of members of a particular minority group reside.

In regions where minority language speakers are heavily concentrated, public authorities should be able to respond to requests and offer services in the minority language. Failure to do so could constitute a violation of the right to non-discriminatory treatment by the state.¹³⁷ In southern Slovakia, speakers of the non-state language are numerous and some residents may have limited proficiency in Slovak. This is particularly true for young children or elderly citizens who conducted the majority of their public and private communication in Hungarian. The demographic data of the southern region demonstrates that the vast majority of individuals encountered by public administrators will speak Hungarian as their primary language.¹³⁸ Imposition of a state language requirement may lead to greater delays in public services to non-native speakers, higher costs for services if a bilingual public servant is needed, difficulties in communicating information that could result in the loss of benefits or services, and additional costs involved with traveling to an area where bilingual services are available. Local authorities, in line with the non-discrimination mandate of numerous international documents, should provide an increasing number of services in the non-state language where a substantial number of Hungarian citizens reside.¹³⁹

In addition to concerns over discriminatory treatment in public administration, the prerequisite of proficiency in the Slovak language for

137. In Case 379/87, *Groener v. Minister of Educ.*, E.C.R. 3967 [1989], the European Court of Justice stated that a state's linguistic policy cannot encroach upon a fundamental freedom in a discriminatory manner. Any language preference, and the manner in which it is applied, must be proportionate to the objective sought.

138. See generally AUAGUSTIN MAROK ET AL., *SLOVAK-MAGYAR RELATIONS* (1995). See Groener *supra* note 137, at E.C.R. 3967); *Selected Issues Viewed by Slovaks and Hungarians Living in Ethnically Mixed Regions of Southern Slovakia*, Sandor Marai Foundation & the Statistical Office of the Slovak Republic, Bratislava (July 1994); *Statement Issued on the Occasion of the Hungarian Convention in Komarno* (Jan. 4, 1994) (all statistics based on the 1991 Slovak census); PETER HUNCIK ET AL., *COUNTERPROOF* (1994); PAVOL FRIC ET AL., *THE HUNGARIAN MINORITZ IN SLOVAKIA* (1993).

139. Fernand de Varennes suggests several measures that local authorities could adopt to conform with the non-discrimination principle including: 1) providing widely used official documents and forms in minority language or bilingual versions; 2) accepting oral or written applications in minority languages; 3) requests made in a minority language could be responded to in the same language by local authorities; and 4) employing sufficient bilingual employees. DE VARENNES, *supra* note 128, at 178.

government employment is also disconcert.¹⁴⁰ This may lead to discrimination against members of minorities in employment for government positions. Economic opportunity and success hinges upon one's proficiency in the state language. As a result, Slovak native speakers will benefit by this provision with regard to access to resources and to public employment opportunities. In Slovakia, the state is a major purveyor of employment, and ethnic Hungarians may be precluded from the opportunities made available by the state solely on the basis of language.

International human rights laws give special consideration to the use of minority languages beyond protections against discrimination. Most notably, the Slovak government has undertaken the obligation to respect minority language usage in the SHBT. SHBT Article 15(4)(b) obliges the Slovak government to respect the principles set forth in Recommendation 1201.¹⁴¹ In relevant part the Recommendation states that every person shall have the right freely to use his/her mother tongue in private and in public, both orally and in writing. This right shall also apply to the use of his/her language in publications and in the audiovisual sector.¹⁴² In addition, the regions in which substantial numbers of a national minority are settled, the persons belonging to a national minority shall have the right to use their mother tongue in their contacts with the administrative authorities and in proceedings before the courts and legal authorities.¹⁴³ By ratifying this bilateral treaty, the Slovak government has committed itself to allow individuals to communicate with administrative authorities in his or her minority language. The requirement of paragraph 3 that "substantial numbers of a national minority" group be present within a geographical location for this right to be invoked is clearly met in the majority of towns throughout southern Slovakia. In some towns and villages ethnic Hungarians constitute more than eighty percent of the population.¹⁴⁴ Given the binding nature of the SHBT, the Slovak government should provide bilingual services in the majority of towns, cities, and villages located in the southern region of Slovakia.

The public use of minority languages is also protected in numerous other international instruments to which Slovakia is a party. The protection of the use of minority languages is unconditionally provided for in the CCPR. CCPR Article 27 states, "[i]n those States in which ethnic,

140. This prerequisite is contained in section 3(2) of the Language Law.

141. *See generally* Recommendation 1201 art. 7(1),(3).

142. *Id.* art. 7(1).

143. *Id.* art. 7(3).

144. *See* Statement Issued on the Occasion of the Hungarian Convention in Komarno, by the Hungarian Coalition (Jan. 4, 1994). These figures are based on the 1991 Slovak census.

religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.” The language of Article 27 indicates that a system of minority language usage exceeds allowance during criminal proceedings, as this situation is explicitly covered in Article 14(3). Although unspecific, Article 27 seeks to promote equality between minority and majority speakers. The provision’s terms should apply to official dealings where minority language speakers are at a disadvantage, whether it be in law, administration, or in school. The Human Rights Committee routinely inquires about the situation of minority language schools, publications, court proceedings, television programs, and radio broadcasts when member states make their human rights reports to the Committee to monitor compliance with this article.¹⁴⁵ This questioning evidences the broad scope of Article 27.

FCNM Article 10 contains a provision for the consideration of the use of minority languages in official contacts. Article 10 states:

[1] [t]he Parties undertake to recognize that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.

[2] In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.¹⁴⁶

These principles are set forth with some hesitation. Mr. Heinrich Klebes, Deputy Secretary General of the Council of Europe, opined that although “the use of the minority language represents one of the principle means by which [members of national minorities] can assert and preserve their identity,” paragraph 2 does not cover all relations between persons belonging to a national minority and public authorities.¹⁴⁷ Paragraph 2 does include communication with administrative authorities, but only if the two

145. See PATRICK THORNBERRY, *INTERNATIONAL LAW AND THE RIGHTS OF MINORITIES* 200 (1991).

146. FCNM *supra* note 71, art. 10.

147. Heinrich Klebes, *Commentary to the Council of Europe’s Framework Convention for the Protection of National Minorities*, 16 HUM. RTS. L.J. 92, 105 (1994).

conditions of *substantial numbers* and a *request* for communication in minority languages are met. This paragraph has been interpreted broadly to include, for example, ombudsmen.¹⁴⁸ This Article was purposefully worded very broadly to grant states a wide degree of discretion. Nevertheless, it urges states to be as generous as possible in this area. As the two requirements of paragraph 2 are met in Slovakia's southern region, the Slovak government should provide for the use of minority languages in relations with administrative authorities. The refusal of the Slovak government to do so can be characterized as a failure to fulfill its obligations under the FCNM.

In addition to the FCNM and the CCPR, various international human rights documents have supported the use of minority languages in the context of public administration. The Council of Europe's Vienna Declaration on Human Rights, Appendix II, states:

We, Heads of State and Government of the members states of the Council of Europe, have agreed as follows, concerning the protection of national minorities: [P]ersons belonging to national minorities must be able to use their language both in private and in public and should be able to use it, under certain conditions, in their relations with the public authorities.¹⁴⁹

This principle is again set forth in the Council of Europe's Recommendation 1134 (1990) on the Rights of Minorities. This Recommendation enumerates general principles that states should apply to respect the existence of national minorities within their borders, specifically addressing principles relating to linguistic minorities. Paragraph 12 articulates that "persons belonging to a linguistic minority shall have access to adequate types and levels of public education in their mother tongue." Paragraph 13 of Recommendation 1134 states:

[a]s far as European states are concerned they should . . .

ii. [t]ake all the necessary legislative, administrative, judicial and other measures to create favourable conditions to enable minorities to express their identity, to develop their education, culture, language, traditions and customs;

. . . .

148. *Id.* at 105.

149. Vienna Declaration on Human Rights, Council of Europe Summit, Vienna, Oct. 9, 1993. Reprinted in DE VARENNES, *supra* note 128, at 303.

iv. Abstain from pursuing policies aimed at forced assimilation of national minorities, from taking administrative measures affecting the composition of the population in areas inhabited by national minorities, and from compelling such minorities to remain confined in geographical and cultural 'ghettos;'

v. fully implement the provision of Article 27 of the International Covenant on Civil and Political Rights which reads as follows: In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.¹⁵⁰

The Report of Experts on National Minorities¹⁵¹ by the OSCE states in paragraph II that "[the participating states] reconfirm that persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all aspects, free of any attempts at assimilation against their will." The experts noted, *inter alia*, the positive results obtained through the use of education in one's mother tongue, and funding the teaching of minority languages to the general public and in teacher training programs.¹⁵² Furthermore, the EU's Resolution on the Languages and Cultures of Regional and Ethnic Minorities¹⁵³ recommends, in paragraph 9, that: "[M]ember states . . . take social and economic measures including: providing for the use of the regional and minority languages in public concerns [and] providing for consumer information and product labeling in regional and minority languages."

When a state provides protection to its national minorities, a more harmonious relationship can develop between the state and the minority groups found within its borders. Language constitutes the essence of Hungarian culture and community. Supplying language rights to the Hungarian minority may be the most effective means of diffusing ethnic tension in Slovakia. By imposing a state preference for speakers of a

150. Council of Europe's Recommendation 1134 on the Right of Minorities(1990).

151. Report of Experts on National Minorities, Conference on Security and Cooperation in Europe (now the OSCE), Geneva, July 19, 1991.

152. *Id.*

153. Resolution on the Languages and Cultures of Regional and Ethnic Minorities (European Union) European Parliament, Strasbourg, Oct. 30, 1987. Reprinted in DE VARENNES, *supra* note at 128, at 26 .

certain language, the potential for discrimination against non-native speakers of the designated language is great. Those who possess Slovak as their primary language have a greater advantage for employment, particularly by the state. Given Slovakia's centralized administration, this advantage is enormous.

The Slovak government must adhere to its obligations under international human rights law. Specifically, the government agreed to provide for the use of minority languages with local authorities in the SHBT. In addition, numerous human rights instruments illustrate that allowance for the minority language usage is a developing custom to be respected by states. The politicization of language in Slovakia is not in response to the inability of minority groups to speak the Slovak language, because this is not a documented phenomenon. Rather, the government's involvement with the regulation of language use derives from the desire to create a common culture in Slovakia by forcing national minorities to abandon their respective cultures and languages in order to fulfill the government's nationalist agenda. The Slovak government must exercise extreme care to balance the right of a state to safeguard the position of the state language and to ensure that the languages of national minorities are protected.

2. Minority Language Education

In 1995, the government launched the idea of *alternative education* for minority children. The idea behind the plan is to give children, or rather their parents, the opportunity to choose a Slovak, Hungarian or mixed language education. The stated purpose of the project is to provide more subjects to be taught in the Slovak language. This plan was also developed to improve knowledge of the Slovak language among minority children. Under the alternative education plan, Slovak is to be the language of instruction for a certain number of hours each week. Only native Slovak teachers would be allowed to teach certain subjects, such as history and geography. These teachers would be given extra wages in predominantly Hungarian regions. An alternative education class would be established as soon as demand was expressed, even if by only one pupil or parent. At present, ethnic Hungarian children are free to choose an entirely Slovak language school at every stage in their education. About one third of ethnic Hungarian children make this choice.¹⁵⁴

Concerns about alternative education have been voiced by members of the Hungarian minority. A prevailing criticism is that alternative education is intended to eventually subdue all pure Hungarian-

154. *The New Law on The State Language of the Slovak Republic*, Istvan Lanstnyak, Bratislava 1996.

language education in Slovakia. The program is perceived as a step toward the gradual assimilation of ethnic Hungarian children and an attempt to liquidate Hungarian schools, thereby decreasing the need for and employment of Hungarian-speaking teachers. Fears are also expressed that undue pressure would be employed to incite parents to choose the alternative education form.¹⁵⁵ Ethnic Hungarians assert that the term *alternate education* is disingenuous, as school budgets may not be increased adequately to provide for an increase in Slovak classes without a decrease in Hungarian school budgets.

The government's response to these concerns has been to reiterate that the educational program is entirely voluntary. This assertion, however, has largely failed to ease the suspicions of ethnic Hungarians. Hungarian distrust of the Slovak government's motives is reasonable given a recent statement by the Minister of Education, Eva Sklavkovska. Ms. Sklavkovska stated that the government objective was to establish at least one Slovak class in all municipalities across the territory of southern Slovakia, a goal independent of actual interest in such classes.¹⁵⁶ A vast majority of Hungarian parents, however, continue to reject the plan. An ethnic Hungarian parent from Samorin expressed:

[f]or us, there was no question as to whether we would send our children to Hungarian schools. I attended a Hungarian school and so did my husband. I think that, to preserve our cultural identity, the basis of our children's education must be in our mother tongue. Having my children learn Hungarian history and literature is very important and this information is only taught in Hungarian schools. Without Hungarian language education, we would only speak Hungarian at home and our language would become a 'kuchinska rec,' a kitchen language.¹⁵⁷

The decision for an ethnic Hungarian parent whether to send his or her child to a Slovak or Hungarian school has as much to do with one's opinions about cultural survival and political affiliation, as it does educational choices. Mr. Laszlo Ollos of the Nitra Pedagogical College asks, "[t]he absolute majority of Hungarian parents know that placing their child in an alternative education school isn't only a decision about

155. See generally Sharon Fisher, *An Education System in Chaos*, TRANSITION, Sept. 8, 1995.

156. See generally DAILY NEWS MONITOR/TASR, Dec. 9, 1994.

157. Interview with an ethnic Hungarian parent, in Samorin, Slovakia (Aug. 15, 1996.)

education, but is also a political act in support of the policies of the current government. Which Hungarian parent is willing to do that?"¹⁵⁸

On April 6, 1995, a law giving the Ministry of Education the right to dismiss and appoint school directors was passed. This authority has been exercised to dismiss public education officials and replace them with HZDS and SNS sympathizers. In Hungarian dominated areas, appointed school-directors have been ethnic Slovaks and government-friendly.¹⁵⁹ Four ethnic Hungarian high school principals were fired after they helped to organize an opposition to the government's alternative education plan. Mr. Laszlo Kovacs, one of the principals who was terminated for his activity, recalled his experience:

It was the government's strategy to wait to announce the [alternative education] plan until the end of the school year because they thought that all of the teachers would be too tired to fight against it. On June 18th [1995], [the Hungarian school principals] received the plan in the mail. The letter told us that a meeting was planned for June 20th to discuss what the plan meant. Well, we all knew what it meant already!

Since I didn't have much time, I got together with three other principals on June 19th and we wrote a statement against the plan. Before the meeting on the 20th, thirteen of the thirty school directors signed the petition against the plan. Mr. Peus [the Director of Secondary Education] read us the plan at the meeting and then [one of the Hungarian principals] read the opposition statement. Mr. Peus was angry and the meeting ended abruptly. The next day, June 21st, I got a letter in the mail telling me that I was fired. Mr. Peus signed the letter. All four of us who drafted the petition were fired. The ironic thing is that I had just received a certificate and money from Mr. Peus five days before the meeting rewarding me for the good job I was doing at the school. They thought that they could scare the public by firing us and the result of this would be that nobody would be against the [alternative education] plan. But it didn't turn out the way that they had planned because a wave of protest swept through

158. Interview with Mr. Laszlo Ollos, Professor at the Nitra Pedagogical College and Hungarian Civic Party member, in Samorin, Slovakia (July 23, 1996).

159. See generally SME, May 20, 1995.

[southern Slovakia] and people in communities organized against the proposal.

In retrospect, I'm sad that I lost my job, but I still think my sacrifice was necessary because it caused problems for the government. I know that the threats to Hungarian language schools are not finished, but national attention was drawn to the situation after I was fired.¹⁶⁰

If the government is using its power to appoint and dismiss school officials in a manner that suggests discrimination against ethnic Hungarian principals, the government is acting contrary to international law. The United Nations Universal Declaration of Human Rights Article 7 states that "all are . . . entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration"¹⁶¹ CCPR Article 19 asserts that "everyone shall have the right to hold opinions without interference."¹⁶² CCPR Article 18 and ECHR Article 9 guarantee the right of freedom of thought and conscience. These provisions encompass the right to oppose a government policy.

Another major problem facing Hungarian language education is the lack of Hungarian speaking teachers. This problem is due to decrease in university training of teachers in the Hungarian language. In addition, insufficient numbers of recent university graduates are qualified to replace retiring teachers.¹⁶³ The age structure of active teachers is unfavorable because between 1970 and 1989, termed the *Husak Period* after then President Husak, government policy was to phase out the education of teachers at the Hungarian Department of the Nitra Pedagogical College. Today there are approximately 700 Hungarian students at the Pedagogical College. During the Husak Period, this number was decreased to approximately 100 Hungarian students. Mr. Laszlo Ollos of the Department of Philosophy at the Nitra Pedagogical College explained:

[w]e will need 1,500 Hungarian teachers to replace the first generation of Hungarian teachers who will soon retire.

160. Interview with Mr. Laszlo Kovacs, former principle of the Hungarian High School in Samorin, Slovakia, in Samorin, Slovakia (July 10, 1996).

161. See generally International Covenant on Civil & Political Rights, May 28, 1993 [hereinafter CCPR].

162. *Id.*

163. For extensive statistics on Hungarian language education, such as number of pupils/students, availability of schools and teachers, see *Education in the regions with mixed nationalities* (1993); See also Gabzdilova, *Schools in the Slovak Republic with instruction in the Hungarian language - present status*, in MINORITIES IN POLITICS.

We currently do not have enough Hungarian teachers to replace them all. Yet there is constantly a threat to decrease the number of Hungarian students admitted to the College, as well as threats to decrease the number of Hungarian faculty here. Further decreases will continue to threaten the future of Hungarian education in Slovakia. There can be no Hungarian language education without teachers who can teach in the Hungarian language.¹⁶⁴

The total number of Hungarian students accepted at Nitra was reduced from 1009 in 1994-95 to 700 in 1995-96.¹⁶⁵ The Hungarian Department of Nitra Pedagogical College is the only higher educational facility in Slovakia where it is possible to take classes conducted in the Hungarian language. At Comenius University in Bratislava, it is possible to study Hungarian as a foreign language, however, the language of instruction is Slovak and knowledge of the Slovak language is required of all students.¹⁶⁶

In September 1996, the Slovak Parliament passed an ominous measure that will further centralize government control over university education.¹⁶⁷ The law increases the Education Ministry's competence to allot subsidies and gives the Education Ministry the right to veto the appointment of professors and assistant professors.¹⁶⁸ Although it is premature to predict the effect of the law on the Hungarian minority, this new law may be employed to nullify the appointment of ethnic Hungarian professors. This suspicion is reasonable given the current political climate in Slovakia and the articulated hostility of the Ministry of Education to Hungarian language education.

Ethnic Hungarian students are under-represented in Slovak universities.¹⁶⁹ This is a sociological problem that affects members of the

164. Interview with Mr. Laszlo Ollos, Professor at the Nitra Pedagogical College and Hungarian Civic Party member, in Samorin, Slovakia (July 23, 1996).

165. See generally NARODNA OBRODA, Feb. 21, 1995.

166. If the minority is considered too small and the effort of founding and maintaining higher level education in the Hungarian language too costly, organized scholarship systems for student exchanges with Hungary can be considered. This would be completely in the spirit of international exchange and cooperation recommended by numerous international agreements. See *supra* FCNM *supra* note 71, art. 12 (3).

167. This measure was vetoed by President Kovacs and later re-approved by Parliament on October 23, 1996. See Sharon Fisher, *Slovak Parliament Re-Approves Controversial Laws*, 207 OMRI DAILY DIG. II, (Oct. 24, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

168. See Jiri Pehe, *Slovak Parliament Rules on Universities*, 188 OMRI DAILY DIG. II, (Sept. 27, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

169. This point is elaborated in Gabzdilova, see MINORITIES IN POLITICS *supra* note 163.

Hungarian minority and the state because they do not benefit from the total intellectual resources of its citizenry.¹⁷⁰ Reasons given for this underrepresentation include the lower social and economic standing of ethnic Hungarians, the lack of incentives for Hungarian students to study at Slovak universities, insufficient knowledge of education possibilities, and insufficient proficiency in the Slovak language.¹⁷¹

Nationalist interests resulted in the cancellation of a school textbook entitled *Slovakia in the New Century* that was to be published in 1997. Although five of the six members of the oversight committee at the Ministry of Education supported its publication, the history textbook was canceled due to its sections pertaining to the de facto Slovak state in existence between 1939 and 1945 and the Czechoslovak state from 1918 and 1945.¹⁷² Matica Slovenska, a cultural organization aimed at promoting the Slovak nation, successfully opposed publication of the textbook for its inclusion of criticism of the Slovak government's compliance with Hitler's regime during World War II and for its failure to include information concerning the abuse and humiliation inflicted on Slovaks by the Czechs during pre-war Czechoslovakia. Mr. Jan Benko, vice-chairman of the history section at Matica Slovenska, explained the organization's opposition to the textbook: "Slovak history is a fight for national sovereignty and Slovak statehood. National history . . . must have its pride. This 'textbook' lacks the sense and pride of national history. It therefore cannot be used to educate our children to become patriots. They cannot, they must not, learn from this textbook."¹⁷³

The Slovak Constitution specifically guarantees the right to be educated in a minority language.¹⁷⁴ This guarantee, however, is weakened by a *fixed by law* clause that could limit or restrict this constitutional right. Furthermore, exercise of the rights granted in Article 34 of the constitution may not "threaten the sovereignty of the Slovak Republic or discriminate against other citizens."¹⁷⁵ The provision granting the right to be educated in one's minority language should not be categorized as a threat to Slovak sovereignty. As long as education in the Slovak language continues to be

170. Only 2.1% of ethnic Hungarians have university degrees, as compared with 6.5% of Slovaks and 8% of the Ukrainian minority (due to positive discrimination during the communist era).

171. See MINORITIES IN POLITICS, *supra* note 163, at 170-71.

172. See Jana Dorotkova, *Matica Slovenska Cancels History Textbook*, THE SLOVAK SPECTATOR, July 31-Aug. 13, 1996, at 3.

173. *Id.*

174. SLOVK. CONST. art. 34(2)(a). In addition to the right to learn the official language, the citizens of national minorities or ethnic groups shall, under provision fixed by law, also be guaranteed: (b) the right to be educated in a minority language.

175. *Id.* art. 34(3).

supported by the Slovak government, the maintenance of Hungarian language school will not lead to discrimination against other citizens. Under the constitution, therefore, the Slovak government should continue to support and finance Hungarian language education at its present level.

Numerous provisions of international documents concern the education of national minorities. Under the League of Nations system, several treaties contain paragraphs specifically providing for the use of minority language instruction. The Polish Minorities Treaty of 1919, as well as similar treaties in Czechoslovakia, Yugoslavia, and Rumania, provide that minorities "shall have an equal right to establish, manage, and control at their own expense, charitable, religious and social institutions, schools and other educational establishments with the right to use their own language and exercise their religion freely therein."¹⁷⁶ This paragraph obliged states to establish minority language schools in areas inhabited by minorities and to finance these institutions on a proportional basis.¹⁷⁷ In *Treatment of Polish Nationals in Danzig*, the Permanent Court of International Justice examined Article 9 of the Polish Minorities Treaty.¹⁷⁸ This article ensured that adequate primary instruction facilities would be provided to non-Polish speaking nationals. The court held that such a provision represented the right of "minorities, the members of which are citizens of the state, to enjoy . . . amongst other rights, the equality of rights . . . in matters relating to primary education."¹⁷⁹ The Permanent Court again reinforced the provision of minority language education in the *Advisory Opinion on Minority Schools in Albania*.¹⁸⁰ The Court held:

[p]rovisions will be made in the public educational system in towns and districts in which [there] are resident a considerable proportion of Albanian nationals whose mother-tongue is not the official language, for adequate facilities for ensuring that in the primary schools instruction shall be given to the children of such nationals, through the medium of their own language, it being understood that this provision does not prevent teaching of

176. See *supra* note 121.

177. *Id.* at 96.

178. *Treatment of Polish Nationals in Danzig* (1932), P.C.I.J. (ser. A/B) No. 44, 1.

179. *Id.* at 9.

180. *Advisory Opinion on Minority Schools in Albania*, 1935, P.C.I.J. (ser. A/B) No. 64, 3, at 21. This opinion examined the validity of an Albanian law aimed at abolishing all private schools operating within the state.

the official language being made obligatory in the said schools.¹⁸¹

In the *Belgian Linguistic Case*,¹⁸² the European Court of Human Rights held that ECHR, Protocol 1, Article 2 did not impose an affirmative duty on states to ensure, at their own expense, or subsidize education of a particular type. Article 2 only implies the right to “avail themselves of the means of instruction existing at a given time.”¹⁸³ Article 2, therefore, concerns the freedom of education, not a social or cultural right to education. Furthermore, the Court concluded that it is not per se discrimination on the basis of ethnicity under Article 14 to limit the number of languages in which instruction is given in state sponsored schools.

The holding of the court in the *Belgian Linguistics Case* is pragmatic. It has been asserted that it would be unrealistic to mandate that a state provide full funding for every linguistic minority, regardless of their numbers, schooling in their respective minority language. A pure minority language educational system could be an unruly drain on state resources and may result in decreasing the cumulative quality of education on a national level. However, these adverse consequences may not hold true in Slovakia, where the Hungarian minority is heavily concentrated in one region. This demographic situation eases the hardships relating to the provision of minority language schooling. Since 1968, when the *Belgian Linguistics Case* was decided, the right to minority language education has been codified in numerous international human rights documents. It is possible that the *Belgian Linguistics Case* would be decided differently in light of the increasing emphasis placed upon the protection of linguistic and cultural rights within the international legal framework.

The most relevant statement on minority language education is Recommendation 1201 both because of its explicit discussion of minority language education and its binding nature upon the Slovak government. Recommendation 1201 was contained in the SHBT. The Slovak government is thus obliged to respect the provisions contained in this document. Recommendation 1201 Article 8(1) states:

[e]very person belonging to a national minority shall have the right to learn his/her mother tongue and to receive an education in his/her mother tongue at an appropriate number of schools and of state educational and training

181. *Id.*

182. *See supra* note 134.

183. *Id.* at 31.

establishments, located in accordance with the geographical distribution of the minority.¹⁸⁴

The Slovak government did not issue any reservations limiting the effect of this provision. Although the legal obligations under Recommendation 1201 have been debated,¹⁸⁵ the Slovak government explicitly negotiated the terms of the SHBT and should be held to the obligations created therein. Under Recommendation 1201's terms, educational opportunities in the Hungarian language should not be curtailed, particularly in the southern region of Slovakia where the Hungarian minority is concentrated.

In addition to Recommendation 1201, the FCNM includes state mandates to provide minority language education. FCNM Article 12(1) articulates that state parties "shall, where appropriate, take measures in the field of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority." The language of this provision reflects the importance attributed to the education of national minorities about their respective cultures and identities. FCNM Article 12(2) asserts that state parties "shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities." FCNM Article 12(3) obliges that states "undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities." Education is a means through which individuals advance socially, intellectually, and economically. Given evidence of the disproportionate representation of ethnic Hungarians in higher education, the Slovak government, to comply with the dictates of Article 12, should take active steps toward closing this gap in educational achievement.

FCNM Article 14 specifically addresses the importance of an individual belonging to a national minority group to learn his or her minority language. Paragraph 1 states that parties to the signatory states "undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language." Paragraph 2 sets forth the conditions under which education is to be provided in minority languages. The clause asserts that:

[i]n areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there

184. See *supra* note 61, Recommendation 1201 art. 8(1).

185. See *generally* (Opinion on the Interpretation of Article 11 of the Draft Protocol to the European Convention on Human Rights Appended to Recommendation 1201 of the Parliamentary Assembly, Venice Commission), CDL-INF (96) 4, Mar. 22, 1996. This opinion is discussed in greater detail in the section on Slovakia's territorial division legislation, *infra*.

is sufficient demand, the Parties shall endeavor to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.¹⁸⁶

Similar to FCNM Article 10(2), Article 14(2) includes the condition that *sufficient demand* from persons belonging to a national minority be expressed before instruction in minority languages is provided. This phrase, however, is left undefined. Beyond purely demographic consideration of whether *sufficient demand* for Hungarian language schooling exists, political tensions in the region and the historic presence of Hungarian speakers in southern Slovakia are also relevant factors to be considered in this determination.¹⁸⁷ The words *as far as possible* indicate that the allocation of state expenditure to minority language institutions is contingent upon the state's financial resources. The FCNM provisions dealing with minority language education and instruction are worded flexibly to allow individual states to determine the appropriate level of funding in light of its particular circumstances. Mr. Heinrich Klebes of the Council of Europe commented that:

[t]he alternative referred to in [Paragraph 2] "opportunities for being taught the minority language or for receiving instruction in this language" — are not mutually exclusive. Even though Article 14 paragraph 2 imposes no duty upon states to do both, its wording does not prevent the state Parties from implementing the teaching of the minority language as well as the instruction in the minority language. Bilingual instruction may be one of the means of achieving the objective of this provision. The obligation arising from this paragraph could be extended to pre-school education.¹⁸⁸

Article 14(3) recognizes that knowledge of the official language is a factor of social cohesion and integration.¹⁸⁹ Overall, the wording is tentative and evidences unease at the prospect of recognizing the right to minority language education. This hesitancy is largely derived from the

186. See FCNM *supra* note 71, art. 14, para. 2.

187. See DE VARENNES, *supra* note 128, at 205.

188. See DE VARENNES, *supra* note 128.

189. "Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language." See FCNM *supra* note 71, art. 14(3).

need to balance the desire to integrate minority groups into the society of the state concerned and the need to preserve minority culture and language.¹⁹⁰

Beyond the obligations contained in Recommendation 1201 and the FCNM, numerous international instruments embody the growing trend in human rights law to provide, to a varying degree, the right to education in one's mother tongue. The Convention Against Discrimination in Education Article 5¹⁹¹ states that:

[t]he state parties to this Convention agree that . . .

. . . .

(c) it is essential to recogni[z]e the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each state, the use or the teaching of their own language

Furthermore, the Convention on the Rights of the Child Article 29 provides that:

1. State parties agree that the education of the child shall be directed to . . .

(c) the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own¹⁹²

The Council of Europe's European Charter for Regional of Minority Languages also provides for minority language education in Article 8.¹⁹³ Article 8 offers several options for the allocation of education in the relevant regional or minority language at the pre-school, primary school, secondary level, technical and vocational education, university and adult educational level. Section (g) and (h) of this article provide for the training of teachers in minority languages and for the teaching of minority

190. Notably, the ECHR is silent on this issue.

191. Convention Against Discrimination in Education, adopted Dec. 14, 1960, 429 U.N.T.S. 93.

192. Convention on the Rights of the Child, U.N.G.A. Res. 25 (XLIV), 44 U.N. GAOR (Nov. 20, 1989), *reprinted in* 28 I.L.M. 1457 (1989).

193. *See generally* European Charter for Regional of Minority Languages, Council of Europe, Strasbourg, Nov. 5, 1992.

history and culture. Provision for minority language instruction is again contained in the EU's Resolution on the Languages and Cultures of Regional and Ethnic Minorities.¹⁹⁴ This Resolution recommends, in paragraph 5, that:

[M]ember states . . . carry out educational measures including: arranging for pre-school to university education and continuing education to be officially conducted in the regional and minority languages in the language areas concerned on an equal footing with instruction in the national languages, . . . giving particular attention to the training of teaching staff in the regional or minority languages and making available the educational resources required to accomplish these measures, promoting information and resources on educational opportunities in the regional and minority languages . . .¹⁹⁵

Education in one's mother tongue, particularly during primary schooling, is one of the most effective ways of teaching young children. If a child speaks Hungarian at home and enters a Slovak-only language school upon the age of six, foreign language education could produce negative affects on the child. In areas of Slovakia where ethnic Hungarians comprise the vast numerical majority, a child is continually exposed to the Hungarian language in the home, on the streets, and in local shops. Entering into an educational institution that teaches in the state language may logically produce feelings of anxiety, inferiority, and discomfort. UNESCO studied the impact of foreign language education and concluded that "[t]o expect [a child] to deal with new information or ideas presented to him [sic] in a familiar language is to impose on him a double burden, and he will make slower progress."¹⁹⁶ This view was reinforced in the *South West Africa Case* (Second Phase), where Judge Tanaka of the International Court of Justice commented that "if we consider education . . . we cannot deny the value of vernacular as the medium of instruction[.]"¹⁹⁷

194. *Resolution on the Languages and Cultures of Regional and Ethnic Minorities* (European Union) European Parliament, Strasbourg, Oct. 30, 1987. Reprinted in DE VARNNES, *supra* note 128, at 299.

195. *Id.* para. 5.

196. UNESCO, *THE USE OF VERNACULAR LANGUAGES IN EDUCATION* 691 (1953).

197. 284 *South West Africa Case*, 1966 I.C.J. 6. (July 1966) Several studies have been conducted which support the conclusion that non-mother tongue education correlates with poor educational results, psychological inferiority, and may even provide a basis for ethnic tension. See generally Steven Rosnbaum, *Educating Children of Immigrant Workers: Policies in France and the USA*, 29 AM. J. COMP. L. 429, 455 (1981); Karl A. Deustach, *THE POSTAL*

Alternative education should be considered an additional educational opportunity for ethnic Hungarians. As higher education in the Slovak Republic is available almost exclusively in the Slovak language, ethnic Hungarians must develop knowledge of the state language in order to pursue advanced careers. By widening the selection of educational options available for ethnic Hungarians, the alternative education plan could provide benefits to the minority community. The projected benefits of alternative education can only be reaped if the element of choice is extant in the system. Otherwise the alternative education plan, together with positive discrimination in favor of ethnic Slovak teachers and pressure on pupils to incline towards more Slovak options, constitutes a blatant attempt to assimilate children of the ethnic Hungarian community into the Slovak nation.¹⁹⁸

It is a difficult task for the Slovak government to create an educational system that will satisfy the needs of both Hungarians and Slovaks in ethnically commingled areas. While Hungarians must be offered an education in their own language, they should also be given the possibility to learn sufficient Slovak to prepare them for university studies and for coexistence in a multilingual state. Although the importance of learning Slovak should not be underestimated, Hungarian language schools on all levels must be made available to all who wish a unilingual, Hungarian education.¹⁹⁹ The desirable level of Slovak mastery is a question to be answered by each individual (or parent) for his or herself.²⁰⁰ The role of minority language education in Slovakia should not be underestimated. Multilingual abilities must be viewed as an asset in Slovakia. The policy of the Slovak government should be one of generosity towards the Hungarian minority. This is particularly true given Slovakia's commitments under international law. As language is the primary distinctive feature of ethnic Hungarians, education in the Hungarian language is vital to the preservation of Hungarian cultural identity.

SIGNIFICANCE OF LINGUISTIC CONFLICTS (Savard & Vigneault, eds., *Les Etats multilingues* 14 (1975); STUDY OF DISCRIMINATION IN EDUCATION, U.N. PUBLICATION 90, *cited with approval* in DE VARENNES, *supra* note 128, at 194.

198. FCNM art. 5(2) states: "Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation." See FCNM *supra* note 71, art. 5(2)

199. See, e.g., the possibilities for the Swedish minority in Finland to study law or medicine in the Swedish language.

200. See Justification *supra* note 122. "The state . . . is required to establish the conditions for, and must strive to insure that, every citizen be able to master the language in which he can make himself understood in the entire territory of the state[.]"

3. Territorial Divisions

In July 1996, despite wide criticism and a presidential veto, the Slovak parliament passed a controversial territorial division measure that geographically and administratively reconfigured the country's political map. The law expands the number of districts from thirty-four to seventy-nine and increases the number of regions from four to eight. In addition, parliament approved a measure that reorganizes state administration at the regional and district level, mandating that a state administrator be appointed in each region. This administrator then appoints an administrator for each district. Each district state administrator can then appoint all of the members of the district state administrative board.²⁰¹

The territory division law stretches the regions of Slovakia from north to south, thus weakening the voting power of the Hungarian minority by splitting Slovakia's southern region, where most ethnic Hungarians reside, into several new and smaller districts. The territorial division plan leaves an ethnic Hungarian majority in only two of the seventy-nine newly approved districts.²⁰² Successful passage of the territorial arrangement plan resulted in the center of gravity of each of the regions being placed in central Slovakia, longitudinally. Ethnic Hungarians must now travel to distant locations to conduct administrative business. In addition, there is a greater likelihood that ethnic Hungarians will encounter officials who do not speak Hungarian. This is in contrast to the bilingual abilities of most officials in southern Slovakia.

While government officials assert that the reorganization measures are a means of giving more administrative power to local authorities, opposition politicians criticize the plan as reminiscent of communist-style central rule where party members regulate local affairs. Rather than direct election of local officials by the local population, this regime allows regional and district heads to be appointed by the state government. Refuting the government's claims of local empowerment, Democratic Left Vice-Chairman Peter Weiss remarked that "[d]ecentralization is when the state transfers a part of its powers to elected municipal governments and makes sure those are adequately financed from taxes collected in the region."²⁰³ Ethnic Hungarians believe that the territorial reorganization is a

201. See Jana Dorotkova, *Law Carves Slovakia Into More Regions*, THE SLOVAK SPECTATOR, July 17 - 30, 1996, at 3.

202. Statement of the Hungarian Civic Party, Mar. 27, 1996.

203. *Id.* Opposition parties speculate that the territorial arrangement may serve to secure a HZDS victory in the upcoming elections in 1998. At the HZDS Congress held in March 1996, Meciar articulated the benefits of changing the Slovak electoral system from a proportionate system to that of a majority system, thereby creating two leading political rivals in an effort to stabilize the Slovak political scene.

gerrymandering device aiming to create new districts to ensure HZDS and SNS victories in future elections.

This legislative measure may be a response to increasing calls for ethnic Hungarian cultural, educational, and territorial autonomy. Following the first government proposal for altering the territorial arrangement in January 1994, ethnic Hungarians held a controversial meeting in the southern city of Komarno. This meeting resulted in demands for a territorial division plan based on ethnic composition. The Hungarian proposal aimed at decentralizing the state by delegating more power to regional and local authorities in predominantly Hungarian as well as Slovak regions.²⁰⁴ The Slovak government assessed the proposal as a step in the direction of a secession of majority Hungarian territories. Territorial self-rule would grant "autonomy for a region that would very quickly join the Hungarian mother state. The creation of a greater Hungary is the dream of ethnic Hungarian politicians" asserted Zdenka Anettova of the Slovak cultural organization, *Matica Slovenska*.²⁰⁵ Government resistance to full autonomy stems from the fact that in all areas where Hungarians constitute an ethnic majority, ethnic Slovaks are a minority. To hand over all decision making power to local authorities, therefore, is not politically feasible. The current Slovak government is likely to resist requests for any form of autonomy because it would decentralize HZDS's centralized political control. The prospect of local self-government in southern Slovakia prompted the Slovak government to counter the influence of elected representatives by replacing government officials with SNS party members throughout the region. Such activity has reversed the results of democratic elections.

The Hungarian political parties all, to varying degrees, support greater decision making power for minorities; be it in the shape of decentralization or a form of minority autonomy. Coexistence, which has taken the most radical stand on the issue, supports the creation of self-governing territorial units. MKDH strives to ensure "autonomy in the minority culture and education."²⁰⁶ In 1994, however, MKDH rejected the concept of territorial autonomy in favor of cultural autonomy. Mr. Gyula Bardos, a MKDH parliament member stated:

[i]n the current confrontational atmosphere, many political representatives see autonomy as something evil, negative,

204. See Statement of Convention of Local Government Representatives, Mayors and Members of Parliament from Southern Slovakia, *issued in KOMARNO*, Jan. 8, 1994.

205. Zdenka Anettova, *Should Ethnic Hungarians Receive Autonomy?*, THE SLOVAK SPECTATOR, July 31-Aug. 13, 1996, at 11.

206. Information provided by MKDH.

or even dangerous, jeopardizing the territorial integrity of the Slovak Republic Some people claim that autonomy, or self-administration, is a tool to join the territory of southern Slovakia to Hungary. This is a lie. We are not questioning the borders, we do not want to join anyone. We only want decisions about us not to be made without us. In theory, according to the Constitution, we have the right to participate when matters concerning national minorities and ethnic groups are being decided. But in practice, there are no laws and regulations that would guarantee us effective participation in the decision making and control process.²⁰⁷

The Hungarian Civic Party has taken a far less radical stance on the issue of autonomy than the other parties. The Hungarian Civic Party recommends decentralization efforts and plebiscites to decide the names of towns, a very contentious issue that is discussed in greater detail below. Ethnic Hungarian parties, by promoting this issue, have become suspect even in the eyes of the more moderate political parties and are therefore finding it difficult to have any kind of cooperation with the other parties on a national level.²⁰⁸ The cause of the Hungarian minority, ironically, has been harmed by the more radical positions held by members of the Hungarian coalition. The most commonly suggested form of self-government is the simple decentralization of power in Slovakia, both in Slovak and Hungarian regions. Functional self-government in matters of culture and education is another suggested form of autonomy. Functional self-government would allow Hungarian schools to be operated by Hungarian boards, while Slovak schools would stay under Slovak control.

Ratification of the SHBT re-agitated the debate on self-government for ethnic Hungarians. The SHBT contained a binding provision regarding local or autonomous authorities. SHBT 15(4)(b) states: “[The State Parties] shall apply . . . as legal obligations . . . Recommendation of the Parliamentary Assembly of the Council of Europe No. 1201 (1993), respecting individual human and civil rights, including the rights of persons belonging to national minorities.” Recommendation 1201 Article 11 stipulates that:

[I]n the regions where they are in a majority, the persons belonging to a national minority shall have the right to

207. Gyula Bardos, *Should Ethnic Hungarians Receive Autonomy?*, THE SLOVAK SPECTATOR, July 31-Aug. 13, 1996, at 11.

208. See generally Sharon Fisher, *Ethnic Hungarians Back Themselves Into a Corner*, TRANSITION, Dec. 29, 1995.

have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation and in accordance with the domestic legislation of the state.

The treaty was passed by the Slovak parliament only because the ratified version included a *restricting clause* limiting the effect of Recommendation 1201 Article 11. The *restricting clause* stated that:

[t]he Government of the Slovak Republic emphasizes that it has never accepted and has not enshrined in the treaty any formulation that would be based on the recognition of the principle of collective rights for the minorities and that would admit the creation of autonomous structures on ethnic principle. It insists that it has agreed to mention the Recommendation of the Parliamentary Assembly of the Council of Europe No. 1201 (1993) exclusively with the inclusion of the restricting clause: 'respecting individual human and civil rights, including the rights of persons belonging to national minorities.'²⁰⁹

Memorandum and addendum issued unilaterally by a government pertaining to the interpretation of a bilateral treaty does not have any effect under international law. Nevertheless, the interpretation clause has a significant effect on political culture in Slovakia. The pronouncement serves to reinforce the absolute opposition of the government to any accommodation for the self-governance of the Hungarian minority.

Recommendation 1201 Article 11 was the subject of study in March 1996 by the Venice Commission, a group of experts appointed by the Council of Europe. The Commission concluded that Article 11 should be interpreted *very cautiously* and that the right of national minorities to local or autonomous authorities "is possible only in the presence of a binding instrument of international law."²¹⁰ Article 11 does not support a collective right to local self-government, but rather asserts the right of individual members of a national minority group to exercise the rights provided in association with others. Article 11 neither defines the three

209. Statement of the Slovak Government, Mar. 18, 1996 *quoted in* Heinrich Klebes, *The Council of Europe's Framework Convention for the Protection of National Minorities*, 16 HUM. RTS. L.J. 92, 96 n.21. Interestingly, prior to its admittance into the Council of Europe, the Slovak Parliament passed a resolution stating that the Slovakia's policy on the protection of its national minorities was based on the principles contained in Recommendation 1201. *See generally* Slovak National Council, Resolution 295, June 23, 1993.

210. *Opinion on the Interpretation of Article 11 of the Draft Protocol to the European Convention on Human Rights Appended to Recommendation 1201 of the Parliamentary Assembly*, Venice Commission, CDL-INF (96) 4, Mar. 22, 1996, at 5.

means of autonomy enumerated, "local or autonomous authorities or to have a special status," nor proscribes a model for fulfilling obligations created therein. Although Recommendation 1201 may not entitle the Hungarian minority to autonomous authorities, the direction of the Recommendation is clear. Recommendation 1201 seeks to encourage state parties to allocate sufficient power to local authorities in regions heavily populated by members of national minority groups. This allocation would result in the interests of national minorities being reflected in government. By implementing legislation that takes elective control of local representatives out of the hands of the local population, the Slovak government has acted in violation of the spirit of Recommendation 1201.

While the right to local autonomy is not settled under international law, the right to effective participation in a civil society is widely accepted. Ethnic Hungarian calls for autonomy have been in response to the perceived deterioration of minority voting power and representation in government. This situation could be remedied through other means, such as by passage of a law that truly decentralizes state administration. The FCNM, while not providing a legal right to local autonomy, does guarantee the right to effective participation of members of national minority groups in public affairs.²¹¹ FCNM Article 15 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."²¹² Although no reference is made to local authorities, the territorial arrangement now in effect in the Slovak Republic denies ethnic Hungarians of this right. FCNM Article 16 also concerns the minority participation in government. This article states that, "The parties shall refrain from measures which alter the proportions of the populations in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework convention."²¹³ The Explanatory Report accompanying the FCNM lists as examples of such measures not just "expropriations, evictions, and expulsions," but also "redrawing administrative borders with a view to restricting the enjoyment of such rights and freedoms."²¹⁴ Redrawing the regions and districts of Slovakia has infringed on the right to effective participation in public affairs. The effectiveness of Hungarian participation in public affairs is diminished if administrative contacts are conducted in a

211. See FCNM *supra* note 71, art. 15.

212. *Id.*

213. *Id.* art. 16.

214. FCNM, Explanatory Report. See generally FCNM *supra* note 71.

language other than one's mother tongue and far from their homes. None of the measures recommended to state parties by the FCNM Explanatory Report to enhance minority participation have been taken in Slovakia.²¹⁵

The principle of effective participation of members of national minority groups is further referenced in IPNM Article 21. This article provides that: "in accordance with the policies of the states concerned, states will respect the right of persons belonging to national minorities to effective participation in public affairs, in particular in decisions affecting the areas where they live or in the matters affecting them." The effectiveness of Hungarian participation at all levels of government is diminished by the territorial division law's prohibition against the election of regional state administrators, local district administrators, and the district state administration board members. By forcing members of the Hungarian minority to travel farther distances to reach the administrative center of their respective regions, Hungarian's interests are less likely to be represented or acknowledged because of the increased distance from predominantly Hungarian territories. These results are in contrast to Recommendation 1201, the FCNMs provisions, and the IPNM.

The role of local and regional authorities is particularly important in a state emerging as a democracy after decades of centralized, communist rule. The principles encompassed in the European Charter of Self-Government, while not binding on the Slovak Republic, should be instructive.²¹⁶ This Charter outlines a framework to be followed in establishing forms of local self-government. The preamble stresses that:

[l]ocal authorities are one of the main foundations of any democratic regime; [c]onsidering that the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member states

215. Parties could promote . . . *inter alia* the following measures:

- consultation with these persons, by means of appropriate procedures and, in particular, through their representative institutions, when Parties are contemplating legislation or administrative measures likely to effect them directly;
- involving these persons in the preparation, implementation and assessment of national and regional development plans and programmes likely to effect them directly;
- undertaking studies, in conjunction with these persons, to assess the possible impact on them of projected development activities;
- effective participation of persons belonging to national minorities in the decision making processes and elected bodies both at national and local levels;
- decentralised or local forms of government.

See Klebes, *supra* note 1, at 101.

216. See generally European Charter of Local Self-Government, 1985 Europ. T.S. No.122

of the Council of Europe; [c]onvinced that it is at the local level that this right can be most directly exercised; [c]onvinced that the existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen; [a]ware that the safeguarding and reinforcement of local self-government in the different European countries is an important contribution to the construction of a Europe based on the principles of democracy and decentralization of power; [a]sserting that this entails the existence of local authorities endowed with democratically constituted decision making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for their fulfillment²¹⁷

Article 3(1) defines the concept of local self-government as follows: "Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population."²¹⁸ The options outlined in the Charter are particularly appropriate for the states of Central and Eastern Europe. Implementing measures aimed at increasing local democracy, by redistributing the historic powers held by the central government to regional or local authorities, would enhance the right of minorities to participate in local government. Slovak sovereignty would continue to be respected under this scheme. This Charter provides a framework within which states can arrange local authorities to maximize the participation of members of national minority groups while preserving the young state's territorial integrity.²¹⁹ Enhancing the role of local authorities in the southern territory of Slovakia would grant ethnic Hungarians a greater ability to express and promote their group identity.

The Council of Europe's Congress of Local and Regional Authorities of Europe (CLRAE) adopted Resolution 250 (1993): "on the adoption of local and regional self-government in Central and Eastern European countries."²²⁰ In order to facilitate the development of local and regional democratic institutions, CLRAE made several recommendations.

217. *Id.*, preamble.

218. *Id.* art. 3(1).

219. *Id.* art. 5.

220. COUNCIL OF EUROPE'S CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE RES. 250 (1993)[hereinafter CLRAE].

Some of the actions CLRAE encouraged include: 1) respecting the autonomy of local and regional authorities, 2) supporting cooperation among local and regional authorities, 3) promoting the election of regional authorities, and 4) financing these institutions at such a level as to facilitate their effectiveness.²²¹ The Slovak government has not implemented any of these suggestions. In fact, measures directly contrary to these suggestions are currently operating to resist decentralization.

The EU's Resolution on the Languages and Cultures of Regional and Ethnic Minorities recommends that:

[m]ember states . . . carry out administrative and legal measures including: providing a direct legal basis for the use of regional and minority languages, in the first instance in the local authorities of areas where a minority group does exist, . . . requiring decentralized central government services also to use national, regional, and minority languages in areas concerned²²²

The Council of Europe's Recommendation 1134 also includes the right of national minorities to "participate fully in decision making about matters which affect the preservation and development of their identity and in the implementation of those decisions" Furthermore, the Report of Experts on National Minorities²²³ by the OSCE states in paragraph II that: "[The participating states] reconfirm that persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all aspects, free of any attempts at assimilation against their will." The Experts noted, *inter alia*, the positive results obtained through the use of 1) local and autonomous administration including territorial autonomy, 2) decentralization, and 3) advisory and decision making bodies in which minorities are represented.²²⁴

The impact of the territorial division legislation has yet to be assessed, but because the territorial delineation makes Hungarians the minority in the overwhelming majority of districts, negative consequences are soon to become apparent. The territorial division plan clearly

221. *Id.*, see also PATRICK THORNBERRY ET AL., COUNCIL OF EUROPE AND MINORITIES 61, n.275 (1994).

222. European Parliament *Resolution on the Languages and Cultures of Regional and Ethnic Minorities*, Strasbourg, para. 6, (Oct. 30, 1987), reprinted in DE VARENNES, *supra* note 128, at 299.

223. Report of Experts on National Minorities, Conference on Security and Cooperation in Europe (now the OSCE), Geneva, July 19, 1991.

224. *Id.*

diminishes the presence of Hungarian voters in all districts, but in addition, the plan also reduces the strength of the minority's ability to request changes in other administrative services, such as the provision of bilingual information. Wherever a minority constitutes a *substantial* percentage of the population, its members shall have the right to use their own language, dictates the FCNM. This condition is no longer fulfilled in a single district due to the geographic manipulation of local districts under the territorial division legislation. Thus, the question must be asked whether the Slovak government is deliberately attempting to circumvent its obligations under the FCNM.

Some form of local self-government in southern Slovakia would serve to ease ethnic tensions and perhaps restore a degree of faith in the Slovak government to ethnic Hungarians. By refusing to consider this alternative, the government has further agitated the minority population with its hard-line resistance. Genuine democracy is premised upon the participation of all individuals in the decision making processes of society. Minorities exercise their basic rights at the local level, therefore, the importance of adequate representation of national minorities cannot be dismissed by the government. Articulation of the special concerns of the ethnic Hungarian population, therefore, is vital to maintaining a democratic state that respects all members of its society.

4. The Law on Names

According to Slovak grammar, female surnames add the suffix “-ová” in the nominative case.²²⁵ Hungarian grammar does not contain a similar directive, therefore, any measure that imposes the “-ova” ending is a highly sensitive issue among Hungarian women. Such a mandate is viewed as a means of *Slovakizing* Hungarian names. On July 7, 1993, a Law on Names and Surnames was passed by the Slovak Parliament. Adding the “-ova” ending to one's last name was made compulsory for Slovak citizens under the 1993 law, regardless of ethnicity. In addition, the law prohibited the registration with authorities of non-ethnic Slovak Christian names. Traditional Slovak names such as the first name “Jan” could be registered as an official birth name, but the Hungarian counterpart, “Janos,” could not. This version of the law was in force until 1994, when the interim Moravcik government, under pressure from the Council of Europe, drafted changes in the law making the female gender suffix optional and including a provision accepting Hungarian Christian

225. For example, Mr. Kovacs versus Mrs. Kovacsova.

names. The proposal was voted and approved by Parliament on May 27, 1994.²²⁶ This law remains in force in the Slovak Republic.²²⁷

Protection of ethnic names is pronounced in Recommendation 1201 Article 7(2), which articulates that: “[e]very person belonging to a national minority shall have the right to use his/her surname and first name in his/her mother tongue and to official recognition of his/her surname and first names.” The provisions contained in Recommendation 1201 are directly binding on the Slovak government as they are incorporated into the SHBT. As a result, the use of ethnic first and last names must be ensured and protected by the Slovak government. In addition, state obligations under the FCNM are clear with regard to the recognition of ethnic names and surnames. FCNM Article 11(1) states that “[t]he Parties undertake to recognize that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.” The right to use traditional first names from the minorities’ cultural sphere is likewise ensured by this article. The IPNM also confirms official recognition of ethnic names. Article 11 asserts that: “[a]ny person belonging to a national minority shall have the right to use his/her surname and first names in his/her language and the right to official acceptance and registration of such surname and names.” Furthermore, the EU’s Resolution on the Languages and Cultures of Regional and Ethnic Minorities recommends that member states “officially recogni[ze] surnames . . . expressed in a regional or minority language.”²²⁸

The CCPR contains, in Article 17, protection against arbitrary or unlawful interference in one’s private life. The United Nations Human Rights Committee has held that this article protects the right to choose one’s own name.²²⁹ The Committee supported its conclusion by analyzing the importance of one’s name to the preservation of his or her identity. In line with this ruling, ethnic Hungarian traditional names should be respected and allowed.

226. On the occasion of the vote, the representatives of HZDS and SNS left the assembly hall in protest.

227. The Language Law also contains a provision concerning the use of Slovak names. Section 3(6) states that “[e]very citizen of the Slovak Republic has a right to alter, free of charge, his first name and his family name into a Slovak orthographic form.” Language Law of Slovak Republic § 3(6). (The reverse administrative procedure is not free of charge).

228. See *supra* note 221.

229. Communication No. 453/1991, U.N. Hum. Rts. Comm. (Oct. 31, 1994), in which two Dutch citizens sought to change their given surnames to Hindu names. The Dutch authorities refused to process their request, and the parties filed a complaint under Article 17 and 18 of the CCPR.

The provisions protecting the right to use traditional names are not written in discretionary language; they do not contain restricting clauses. Thus, under international human rights law, gender suffixes cannot be imposed on citizens of a state. Linguistic minorities cannot be forced to obey grammatical rules of the majority language. Respect for Hungarian Christian names is not dependent on the state's resources, but rather on the state's willingness to recognize the cultural diversity within its society. The Hungarian language largely uses the same characters as the Slovak alphabet and minor adjustments can easily be made to accommodate for any differences. This accommodation involves little or no expense to the government, but would be a symbolic gesture of deference to the minority. The state has an unequivocal obligation under international law to provide legislation (or administrative procedures) to grant the usage and state recognition of minority language first names and surnames, including the optionality of gender suffixes.

5. Bilingual Road Signs

Cities, towns and villages throughout southern Slovakia have different names in Hungarian than in Slovak as a remnant of when Hungary controlled the region. According to ethnic Hungarians inhabiting this territory, location names should be posted in both the Slovak and Hungarian languages. Currently, bilingual language road signs are posted across southern Slovakia.

With the birth of the Slovak Republic in January 1993, measures were taken to eliminate Hungarian or bilingual road signs. The Ministry of Transportation issued a decree entitled, "Elimination of the Deficiencies in the Vertical Road Signs," under which all bilingual road signs in Slovakia were to be replaced by Slovak language postings by July 31, 1993. Protests ensued in the form of memoranda, demonstrations, and obstruction of traffic in Hungarian-dominated villages. The Ministry claimed that the decree promoted the normal supervision of road signs and was in full accordance with Council of Europe recommendations.²³⁰ The measure was also allegedly intended to ensure the standardization of road signs throughout Slovakia to comply with EU standards.

In 1993, the Council of Europe recommended that a law be adopted to guarantee the posting of bilingual road signs. On January 28, 1994, a law concerning bilingual road signs in communities with large percentages of minorities was defeated in Parliament by just three votes. The law was redrafted to include a provision that communities with over twenty percent of the population belonging to a minority should post

230. The motive was also forwarded that the Hungarian language road signs constituted a hazardous distraction.

bilingual signs. A law on bilingual road signs drafted by the interim Prime Minister Moravcik was eventually passed by the Slovak Parliament.²³¹ This law is referenced in the Language Law's Article 3(3)(d):

[i]n the state language . . . official names of municipalities and their districts, denomination of the streets and other public places, other geographical names, as well as the data in the layout of the state map works, including the land-registry maps, are conducted; denomination of municipalities in other languages are regulated by a separate law²³²

By this language, the existing law on the use of bilingual road signs and place names should not be overruled by the Language Law's provisions.

Recommendation 1201, as included in the SHBT, contains a provision on this issue. Article 7(4) asserts that "[i]n the regions in which substantial numbers of a national minority are settled, the persons belonging to that minority shall have the right to display in their language local names, signs, inscriptions and other similar information visible to the public." This articulation of when and under what circumstances Hungarian traditional names and signs can be displayed must be adhered to in light of the binding nature of this document upon the Slovak government. Members of the Hungarian minority are heavily concentrated along the southern border of the state. Therefore, the *substantial numbers* requirement is clearly met throughout this region.

The right of linguistic minorities to bilingual road signs is also enshrined in the FCNM Article 11(3). This article asserts:

[i]n areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavor, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.²³³

The *substantial numbers* mentioned in this article are not specified. However, in certain areas of Slovakia where the Hungarian population surpasses twenty to eighty percent, the condition is clearly fulfilled.

231. Language Law of Slovak Republic, Law No. 191/1994.

232. *Id.* art. 3(3)d.

233. *See generally* FCNM *supra* note 71, art. 11(3).

Sufficient demand is another unclear provision. Surveys indicate that this condition is fulfilled. In one survey, ninety-six percent of ethnic Hungarians stated that they wanted bilingual road signs.²³⁴

In addition to the SHBT's Recommendation 1201 and the FCNM, the IPNM recognizes the right of members of national minority groups to the posting of bilingual local names. Article 14 provides that: "[i]n conformity with their national legislation states may allow, where necessary through bilateral agreements with other interested states, the displaying of bilingual . . . local names . . . in areas where the number of persons belonging to a national minority reaches . . . a significant level." Again, the *significant level* of persons belonging to a national minority requirement is clearly met in the southern region of Slovakia. The posting of bilingual signs is mandated by the bilateral friendship treaty ratified by Slovakia and Hungary.

The EU's Resolution on the Languages and Cultures of Regional and Ethnic Minorities recommends that member states "officially recogni[ze] . . . place names expressed in a regional or minority language."²³⁵ Furthermore, in paragraph 9, the Resolution provides for the "use of regional languages for road and other public signs in street names."²³⁶ As Slovakia is seeking entry into the EU, adherence to these principles is necessary to being granted member status. It is, therefore, recommended that Slovakia continue to abide by the Resolution's recommendations.

The issue of road signs is thus one of the few contentious issues where the situation of the Hungarian minority has been settled in accordance with international agreements, albeit through the arduous negotiations of a previous government. In light of the binding nature of Recommendation 1201, and its express provision relating to this issue, the Slovak government should continue to respect the posting of bilingual public signs. In addition, such action is supported by the FCNM, the IPNM, and the EU's Recommendation on the Languages and Cultures of Regional and Ethnic Minorities.

6. Mass Media

Perhaps the most alarming aspect of Slovak public life is continuing government control of the mass media. Since the 1994 parliamentary elections, the Slovak government has urged all media outlets to report in an objective and neutral manner, namely, to limit government

234. See PETER HUNCIK ET AL., COUNTERPROOF 106 (1994).

235. See *supra* note 220

236. *Id.* para. 9.

criticism.²³⁷ Two media oversight organizations, which many journalists charge monitor and suppress anti-government media, have been established: the Mass-Media Council and the Slovak Information Agency. This policy has resulted in an antagonistic relationship between the government and the press.

Prime Minister Meciar has utilized the courts to stifle expression and has replaced the heads of the state television, radio, and news agency with his own political allies. In November of 1996, a Slovak court ordered the leading Slovak opposition newspaper *Sme*, to apologize to and pay cabinet ministers approximately \$242,000 for publishing an article criticizing the eighteen cabinet members.²³⁸ The Slovak government has been diligent in replacing individuals within media organizations who are not explicitly friendly to HZDS with its own sympathizers. For example, the appointed director of the Slovak Television (STV), the state-operated television network, immediately canceled three popular programs with political satires. He stated that television "cannot continue to be used to offend the nation . . . [or] national institutions."²³⁹ Slovak Radio and TASR (a news agency) have been subjected to the same kind of censorship.²⁴⁰

A graphic example of political interference with the development of a free and independent press occurred in November 1996. Ms. Tatiana Repkova was removed as editor-in-chief and publisher of *Narodna Obroda*, an independent daily newspaper. Her termination occurred after the newspaper published a Russian report stating that Prime Minister Meciar was ill with a brain tumor. *Narodna Obroda's* owner, the VSZ steel mill, meddled with the newspaper's editorial content and published an apology to the Prime Minister without Ms. Repkova's knowledge or consent. VSZ's directors and major shareholders of VSZ have close ties to the Prime Minister, and the Slovak Minister for Transportation is one of VSZ's owners. When Ms. Repkova sought assurance for VSZ that there would be no further interference with the newspaper, she was dismissed as editor and publisher. She was not given any reason for her termination.²⁴¹

237. See generally Sharon Fisher, *Slovak Media Under Pressure*, TRANSITION, Sept. 8, 1995.

238. See Sharon Fisher, *Slovak Opposition Daily Loses Slander Case*, 216 OMRI DAILY DIG. II (Nov. 7, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

239. *Id.*

240. See generally REUTERS, Feb. 25, 1995.

241. See Jane Perlez, *Dismissal of Slovak Editor Called Setback for Press Freedom*, N.Y. TIMES, Nov. 29, 1996, at A 15.

Ms. Repkova's replacement was recently employed by the pro-government regional daily, *Luc*.²⁴²

Slovakia's long-awaited media bill passed through the government's legislative council in March 1996. If passed by Parliament in its current form, the media bill would severely limit press freedom and cause great financial hardship on the independent press. Monetary penalties for violation of the law's provisions would be a maximum of one million Slovak Crowns (approximately \$33,220).²⁴³ The bill also requires journalists to reveal their sources, a practice that is contrary to western norms. In addition, the bill prohibits the publication of material that "in a hidden or open way offends Slovak statehood, state symbols, [or] . . . nationality."²⁴⁴

The Slovak government has utilized a variety of means to maintain substantial control over the media. Television, for example, has remained largely within government control.²⁴⁵ STV has been criticized for canceling several popular political satire programs and for serving as a government mouthpiece.

Radio licenses and newspapers are slowly passing into the hands of government supporters. While privatization efforts continue, the government has been criticized for favoring government sympathizers in its privatization scheme.²⁴⁶ For example, the Board of Radio and Television Broadcasting recently granted Radio Koliba a broadcast license. The co-owner, Mr. Fedor Flasiak, is reputed as having close ties with HZDS and was one of the main organizers of the 1994 HZDS election campaign.²⁴⁷ More recently, this agency was granted a television license to replace the frequencies freed by STV's second channel.²⁴⁸

The operation of Radio Free Europe was also threatened by the Slovak government. On January 10, 1996, Slovakia's Board for Radio and TV Broadcasting Chairman announced that Radio Free Europe would lose

242. See Sharon Fisher, *Slovak Roundup*, 226 OMRI DAILY DIG. II (Nov. 16, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.html>> .

243. *Id.*

244. Anne Nivat, *Slovak Media Under Government Fire*, 2 TRANSITION, No. 9, May 3, 1996, at 60.

245. There is a private cable channel, VTV. Four out of the five owners of this channel are loyal to the HZDS. Markisa is another private channel.

246. Vincent Boland, *Political Feuding in Slovakia Obscures Economic Progress*, THE FIN. POST, Dec. 28, 1995, at 1.

247. Sharon Fisher, *New Radio License Granted*, 129 OMRI DAILY DIG II (July 3, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

248. Jiri Pehe, *Another Private Nationwide TV Station Planned in Slovakia*, 188 OMRI DAILY DIGEST II (Sept. 27, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

its license, if it did not *improve* its news reporting within thirty days. The openly admitted reason for threatening to cancel Radio Free Europe's license is because the station is not perceived as reporting favorably to the government. Director-General Dusan Kleiman of the SLOVAKIA Press Agency alleged:

[t]he news reporting presented by this radio station is unbalanced and non-objective. It is almost entirely dominated by critical and negative material. This way of informing the public diverges from the nature of a mass media institution, which Radio Free Europe makes itself out to be, as it is obviously performing the propaganda purposes of certain political circles not leaning favorably towards the current government and Slovakia.²⁴⁹

Journalists have also reported that they are being followed by the secret police.²⁵⁰ Other journalists have been prosecuted for their reports²⁵¹ or have lost their positions shortly after expressing independent views.²⁵²

In February 1995, Prime Minister Meciar announced that there were too many newspapers in Slovakia, and that their number should be diminished by a tax increase.²⁵³ The ensuing proposal would have increased taxes for newspapers with foreign ownership. This provision would have produced dire effects on opposition newspapers, which are commonly owned by foreign agents. In response to this proposal, two-thirds of Slovak daily newspapers²⁵⁴ simultaneously published a blank front page bearing the title, *Anxiety*.²⁵⁵ Perhaps as a result of this protest, the measure failed to be approved by the Slovak Parliament.

249. See generally DAILY NEWS MONITOR/TASR, Jan. 11, 1996. Despite these attacks, Radio Free Europe's license was extended for 18 months on November 19, 1996. See *Slovakia Extends RFE/RL License*, 225 OMRI DAILY DIG. II (Nov. 20, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

250. See generally THE PRAGUE POST, Dec. 27, 1995.

251. See *Human Rights News Briefs from Slovakia*, INT'L HELSINKI FED'N, Jan. 8, 1996.

252. See generally Sharon Fisher, *Slovak Media Under Pressure*, TRANSITION, Sept. 8, 1995.

253. In spite of the alleged shortage of funds for media matters and the stated superfluity of newspapers, the government has provided funding for an entirely new daily, the *Nova Zmena Mladych*. This newspaper received somewhere between fifteen and fifty million Slovak Crowns from the government. The newspaper's Editor-in-Chief was a former editor of *Zmena*, a weekly widely criticized for anti-Semitic articles, and as his deputy was a former spokeswoman of the SNS. The paper quickly established itself as staunchly nationalist, "anti-European" and faithful to the government. This newspaper has since gone out of print. See generally THE PRAGUE POST, Jan. 12, 1996.

254. See generally DEUTSCHE PRESSE-AGENTUR, Mar. 6, 1995.

255. See NEWSWEEK, July 17, 1995.

As of May 1995, *Slovenska Republika*, a daily newspaper partly owned by HZDS and highly loyal to the same receives funds designated for the minority press to publish supplements directed at minorities in minority languages. This supplement often does not represent the interests of the minority population. The allocation of public funds to a reputed nationalist newspaper for coverage of issues affecting national minorities is surprising, as it is unlikely that minority members read this paper.²⁵⁶ The government ministries frequently support the *Slovenska Republika* by regularly publishing advertisements in the daily.

Slovaks and ethnic Hungarians alike believe Slovak government policies in this field are inappropriate. After only three months in office, Prime Minister Meciar's government received a petition signed by over 100,000 Slovaks, which accused the government of violating freedom of speech.²⁵⁷ In a recent survey, 51.4% of the respondents expressed distrust for Slovak Television.²⁵⁸ The question as to whether the government should control the activities of mass media was answered in the negative by 71.4% of the respondents.²⁵⁹

The mass media issue is of concern to the Hungarian minority in two ways: generally, a free press serves democracy and civil rights of Hungarians and Slovaks alike; and specifically, the entities taking over the media are manifestly nationalist and anti-Hungarian. Actions directed against free mass media are making it increasingly difficult for Hungarian spokespersons to express their views officially and to receive fair coverage.²⁶⁰ Anti-Hungarian declarations receive full coverage and serve to aggravate the ethnic relations. For example, on the eve of the December parliamentary session that could have ratified the SHBT, STV repeatedly broadcasted a documentary, titled *Bloody Christmas*, on Hungary's occupation of southern Slovakia during World War II, cutting several times to an interview with Mr. Miklos Duray, Chairman of the Coexistence party. MKDH Chairman Bela Bugar noted:

[t]he coalition government has successfully created an anti-Hungarian atmosphere among the people of Northern Slovakia who don't have any contact with members of the Hungarian minority . . . In Liptovsky Mikulas [a northern

256. See Sharon Fisher, *Slovak Media Under Pressure*, TRANSITION, Sept. 8, 1995.

257. See DEUTSCHE PRESSE-AGENTUR Mar. 9, 1995.

258. Quoted in SME, Jan. 13, 1996.

259. *Id.*

260. There are, of course, Hungarian language or bilingual newspapers. Out of 871 Journals, dailies, weeklies and monthlies, 25 belong to this category. See *Adresar Periodik a Vidavatel'ov Slovenskej Republiky 1995*, Novinarski Studijny Ustav, Bratislava 1995.

Slovak town], it was clear that sixty-five of the seventy people in attendance at my speech left the room with the feeling that "My God. So *that* is what the Hungarians want. Now we don't have to be afraid of the Hungarians anymore." [Slovak citizens living in Northern Slovakia] don't know us. They are manipulated by Slovak television and radio. It is through radio and television that northern Slovak citizens hear about ethnic Hungarian. All they receive is a biased image of us.²⁶¹

The confusion among the Slovak citizenry reflected in Mr. Bugar's statement derives largely from the fact that disputes involving the Hungarian minority are routinely featured in Slovak newspapers and on television and radio. For example, when the Hungarian minority living in Velky Kapusany wanted to build a memorial to commemorate the arrival of Hungarians in the Carpathian Basin 1,100 years ago, the event was characterized as an act of separatism and turned into a media spectacle. This issue was also debated in a session of Parliament.²⁶² In response to the erection of a Hungarian monument on Slovak soil, the Slovak Parliament approved a bill in July 1996 regulating state symbols. The measure prohibits the public display of the Hungarian flag in Southern Slovakia except during official visits by Hungarian officials.²⁶³ Turning relatively benign events into national political issues only serves to perpetuate fears and stereotypes of the Hungarian minority. "Every week there is a different issue: towns erecting Hungarian monuments, President Kovac visiting Hungary, and the document from the conference in Budapest in July of 1996. This strategy is employed to get the Slovak public to regard us as troublemakers, an internal enemy," concluded Mr. Gyozo Bauer of CSEMADOK.²⁶⁴

The Language Law also regulates members of the Hungarian minority's ability to broadcast Hungarian language programming. Section 5 of the Language Law seemingly precludes all broadcasting of programs in languages other than Slovak. Section 5(1) states that "[r]adio and television broadcasting is, on the whole territory of the Slovak Republic, conducted in the State language." This general preclusion exempts

261. Interview with Mr. Bela Bugar, MKDH Chairman, in Bratislava, Slovakia (Aug. 1, 1996).

262. See generally *No Agreement in Kapusany*, PRAVDA, June 18, 1996, at 2.

263. See Sharon Fisher, *Slovak Government Approves Bill on State Symbols*, 144 OMRI DAILY DIG. II, Part II (July 26, 1996)(last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

264. Interview with Mr. Gyozo Bauer, President of CSEMADOK, in Samorin, Slovakia (July 16, 1996)

broadcasting in the languages of national minorities by specific legislation. The ambiguity of the Language Law, however, may provide a pretext for interpretations detrimental to minority rights, as the current leadership of STV is manifestly nationalist and anti-Hungarian. By specific legislation, the broadcasting of minority language programs is permissible. The Slovak Television Act of 1993 asserts that "Slovak Television provides also for implementation of the interests of nationalities and ethnic minorities living in the Slovak Republic through [sic] the television broadcasting in their mother tongues."²⁶⁵ The Radio and Television Broadcasting Operation Act of 1993 commits the operators of media outlets to "produce or let produce a significant part of the programs broadcast so that the cultural identity of the nation, nationalities and ethnic groups of the Slovak Republic could be preserved and developed"²⁶⁶ The content, perspective, and quality of minority language programs are not ensured by this legislation.

The Language Law regulates media aimed at young audiences in Section 5(2). This section outlaws the production and broadcasting of children's television programs in any language other than Slovak. Language Law Section 5(2) reads: "[a]udio-visual works of art intended for children up to twelve years of age must be dubbed into the state language." This provision, although primarily aimed at Czech television programs, negatively affects Hungarian children as television is an important means of instruction in the pre-school years and thereafter. Currently, there are no Hungarian language children's programs besides those accessed via Hungarian national television channels.

The Convention on the Rights of the Child Article 17 states that "[s]tate Parties shall . . . encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group. . . ." This encouragement is clearly not present in Slovakia. In fact, such activity is precluded by Language Law Section 5(2). Children of Hungarian nationality are forced to learn Slovak in order to understand television programs. While this is a legitimate governmental objective, the Slovak government should provide options for Hungarian children and their parents. Under the Language Law, not even a local channel would be able to broadcast children's programs in the Hungarian language. The Language Law provision precludes Hungarian children from hearing their language spoken on Slovak television. The Slovak Republic cannot, given the Language Law, fulfill its obligation of *encouraging* the mass media to

265. The Slovak Television Act, Law No. 271/1993, § 3(3), SL of the Slovak National Council.

266. The Radio and Television Broadcasting Operation Act, Law No. 268/1993, (2), SL of the Slovak National Council.

provide for the needs of ethnic Hungarian children as mandated in the Convention on the Rights of the Child.

Television is an important means for the development of children's culture and cultural education. FCNM Article 5(1) states that the "Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture" This provision includes consideration for minority children. The prevailing policy in Slovakia is an effective means of assimilation of Hungarian minority children into the Slovak nation. Article 5(2) provides that: [w]ithout prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation."²⁶⁷ Furthermore, FCNM Article 9 ensures that national minorities not be discriminated against in their access to the media. This article prohibits governmental hindrance of the creation or use of the printed media, radio or television by persons belonging to national minorities. Due to the restrictiveness of the Language Law, all of these referenced obligations are in question.

A free media in a democratic society operates independent of government directives and pressures. It serves to objectively inform the public of current events and proposed government policies. These objectives are severely hampered by a government that strictly scrutinizes and punishes media outlets that are deemed unfriendly. Through use of the courts, questionable privatization methods, and political appointments to important media positions, the Slovak government has effectively stifled the media's ability to objectively educate the Slovak public about domestic events. This control negatively affects the Hungarian minority. Government interests reflected in the media often contain anti-Hungarian biases. As a result, Hungarians are perceived as dangerous by Slovak citizens. The restrictiveness of the Language Law also operates to preclude the broadcasting of minority language programs, a service that is vital to the preservation of Hungarian culture in Slovakia. The Slovak government must respect the operation of a free press within its state, even if the media reports are unfavorable to government policy. In addition, minority language programs and media services should be honored as a means to respect the cultural diversity present within Slovakia.

267. See FCNM *supra* note 71, art. 5(2).

7. Minority Culture

A striking aspect of Slovak government policy toward the state's national minorities is its failure to support minority culture, particularly Hungarian. This area is one of the most crucial to the survival of Hungarian cultural identity within Slovak borders. Over the past three years, funding for Hungarian culture has plummeted from 140.5 million Slovak crowns to zero. This situation resulted from changes in the state funding mechanism for cultural activities. In 1995, the Slovak government decided to grant decision making power over minority culture to the Pro Slovakia fund.²⁶⁸ Pro Slovakia, on a case-by-case basis, reviews applications for funding from the various cultural organizations in Slovakia and determines funding allotments based on specific proposals. As a result, the budget for Hungarian cultural organizations has been drastically reduced and the vast majority of proposals have been denied by Pro Slovakia.²⁶⁹

The board of trustees of Pro Slovakia is appointed by the Ministry of Culture and the identities of the trustees are kept secret. The government justifies the members secrecy by asserting that this set-up prevents undue pressure from being exerted upon trustees. Pro Slovakia has been criticized for favoring cultural organizations that promote the Slovak culture at the expense of national minority culture. Pro Slovakia granted 20.7 million Slovak crowns to the dailies *Slovenska Republika* and *Hlas ludu*, a regional newspaper, for supplements aimed at ethnic minorities. Members of minorities are less likely to be interested in these newspapers, which have reputations for being staunchly Slovak nationalist and government-faithful newspapers. A further 6.8 million Slovak crowns were allocated to a project intended to make Slovak culture popular among minorities.²⁷⁰ Funds to minority culture, therefore, are being used to a great extent to promote Slovak culture among minorities.

The centralized Hungarian cultural organization is CSEMADOK. This organization has traditionally distributed its lump sum budget from the government to finance smaller Hungarian cultural societies throughout Slovakia.²⁷¹ Last year, the Ministry of Culture refused to allocate any money for CSEMADOK, accusing the organization of failing to report

268. A measure labeled unlawful by the Hungarian Coalition Parties, according to Slovak laws on the distribution of powers.

269. Interview with Mr. Gyozo Bauer, President of CSEMADOK, in Samorin, Slovakia (July 16, 1996).

270. See *Some Facts on the Worsening Situation of the Hungarian Minority Living in Slovakia*, Evaluation by the Hungarian Coalition (Sept. 1995).

271. Interview with Mr. Gyozo Bauer, President of CSEMADOK, Bratislava, Slovakia (July 16, 1996).

how its finances were spent during the past budgetary year.²⁷² Mr. Gyozo Bauer, the President of CSEMADOK, explained:

[t]his accusation is only a front for the government's refusal to support our organization. We submitted all of our reports to the Ministry of Culture and to the OSCE High Commissioner for National Minorities to prove the government's accusation is false. If it was true, why haven't I been arrested and tried in a court of law for theft? No government official has asked us for any paperwork or money. They only bring up this issue when asked why they do not fund Hungarian culture. The government is extremely afraid of CSEMADOK. We have a fifty year history here. We survived the time when it was illegal to even speak Hungarian It is the government's policy to first destroy the centralized organization because then there would be no one to support the 500 community projects in the villages.²⁷³

The lack of government support for Hungarian culture has forced organizations like CSEMADOK to rely on private support. Some finances are obtained from Hungarian non-governmental organizations in Hungary and other states. This support has prompted the Slovak government to accuse Hungary of interfering with Slovakia's internal affairs. This situation places ethnic Hungarian cultural societies in a precarious position. The minority cannot rely on Slovak financial support for their cultural activities, nor can they solicit funds from abroad without accusations of threatening Slovak sovereignty. Mr. Arpad Ollos, former mayor of Dunajska Streda, stated:

[w]hen Hungarians from Slovakia make contacts with individuals or groups in Hungary, it is not a fight against the Slovak state Each time we make contact [with Hungary], we are accused of nationalism. We are not part of Hungary. The border will stay the same. These facts are not questioned. We only want to be able to make and maintain contacts with Hungary and not be accused of being traitors.²⁷⁴

272. *Id.*

273. *Id.*

274. Interview with Mr. Arpad Ollos, former mayor of Dunajska Streda, in Dunajska Streda, Slovakia (July 11, 1996).

The Slovak government's failure to support Hungarian culture in Slovakia is contrary to guarantees contained in the Slovak Constitution, as well as provisions enumerated in numerous international standards. Slovak Constitution Article 34(1) asserts that "citizens of national minorities or ethnic groups in the Slovak Republic shall be guaranteed their full development, particularly the rights to promote their cultural heritage, . . . and create and maintain . . . cultural institutions."²⁷⁵ If the Slovak government supports cultural programs that promote Slovak cultural identity, it has an obligation to also promote the cultural heritages of the various minority groups within Slovak borders. To act otherwise would be counter to the letter and spirit of the Slovak Constitution.

The FCNM's preamble states that a component of a truly democratic society is respect for the cultural identity of each citizen. State parties should "create appropriate conditions enabling individuals belonging to a national minority to express, preserve, and develop this identity[.]"²⁷⁶ FCNM Section II, Article 4(2) articulates the duty of a state party to promote "full and effective equality" in cultural life between ethnic minorities and the ethnic majority. Article 5(1) further obliges the state party to "promote conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their . . . traditions and cultural heritage." The EU's Resolution on the Languages and Cultures of Regional and Ethnic Minorities recommends in paragraph 8 that member states "ensur[e] that representatives of groups that use regional or minority languages are able to participate directly in cultural facilities and activities" ²⁷⁷ The Council of Europe's Vienna Declaration on Human Rights, Appendix II, states: "We, Heads of State and Government of the member states of the Council of Europe, have agreed as follows, concerning the protection of national minorities: . . . States should create the conditions necessary for persons belonging to national minorities to develop their culture, while preserving their religion, traditions and customs."²⁷⁸

A system that fails to support the vast majority of Hungarian cultural activities, including folk dance troupes, literature, theater and choruses, cannot be said to fulfill this undertaking. Encouraging these cultural activities certainly do not threaten the Slovak nation. Such activities can be pursued and still be compatible with the government's general integration policy. By recognizing the importance of maintaining

275. See SLOVAK CONST. art. 34(1).

276. See FCNM *supra* note 71, preamble, para. 7.

277. See *supra* note 221.

278. *Id.* at 303.

Hungarian cultural heritage, Slovakia will fulfill its commitment to promote a spirit of tolerance and cooperation among ethnic groups.

8. The Law on Foundations

The role of foundations and non-governmental organizations (NGOs) is a vital component to the maintenance of a civil and democratic society. The importance of such organizations cannot be underestimated, as they serve to direct public policy, review and comment on legislation, and create a dialogue between the government and the public. The existence of NGOs allows individuals to play an important role in all spheres of public life by participating in the task of building a civil society.

In this arena, as with the private media, the Slovak government has been reluctant to develop this independent sector. The emergence of NGOs is perceived as a thorn in the side of the government's agenda. The position of NGOs in Slovak society has been stunted by the recently enacted Law on Foundations.²⁷⁹ After being once vetoed by President Kovac and widely criticized by EU, United States, and United Nations officials, this legislation was again passed by the Slovak Parliament in July of 1996. This measure imposes strong governmental control over NGOs and includes substantial monetary thresholds for qualification as a recognized NGO. The basic start-up capital requirement is 10,000 Slovak crowns (approximately \$320). This amount must be increased to 100,000 Slovak crowns within six months in order for an organization to remain a recognized foundation. The equivalent of \$3200 in capital, this requirement is an difficult threshold in a country with a per-capita income of \$2600. This requirement is applicable regardless of the size, purpose, or needs of the organization. In addition, the Law on Foundations requires that all foundations register with, and receive approval from, the Slovak Ministry of Interior. The law also includes a prohibition against a foundation's use of its resources to finance any political party activities or financial support for a political movement.

While this law does not exclusively touch upon Hungarian organizations, foundations play a large role in the solution of minority problems given the absence of governmental activity in this area.²⁸⁰ For example, the work of the Sandor Marai Foundation, a Hungarian foundation, would be hindered by both the financial burdens of the law and the provisions that indirectly limit permissible criticism of the government.

279. It was estimated that 500 foundations and associations existed prior to passage of the Law on Foundations. Gallop and Kemp, *Review and Recommendations: Proposed Slovak Law on Foundations* (prepared for the European Commission), May 10, 1996.

280. The organs and policies in place for solutions of minority issues in the CSFR have been removed in the Slovak Republic.

The Sandor Marai Foundation has developed training centers on ethnic conflict resolution for ethnic Hungarian, Roma and Slovak communities. As Mr. Peter Huncik, President of the Sandor Marai Foundation, asserted:

[t]he Law on Foundations has very serious implications for our foundation. The [Sandor Maria Foundation] not only works on trying to dissipate ethnic tensions, but also supports Hungarian educational and cultural activities. We publish an annual 'Global Report on Slovakia' which analyzes the country's progress in twenty-two different fields including minority relations, privatization, education, and the environment. None of these activities are supported by the government and, if the government is able to increase their control over foundations, these activities could be limited. But even more serious a problem is the fate of smaller foundations doing vital community work that are located outside of the cities. They will not be able to survive the financial requirements of the new law. The only purpose [of the law] is to control foundations because we were getting too strong and playing too large a role in society. So, the government had to step in and try to keep us dependent. It is the typical Bolshevik, paternalistic behavior that we have endured for so long.

The fact that the power to define what constitutes a political cause rests with a governmental body may produce dire effects on several developing cultural and social advocacy organizations. For example, a conference organized by an environmental foundation concerning clean air, an awards ceremony developed by a Ruthenian organization, or a symposium on domestic violence by a women's organization may be found to be a political, and therefore prohibited act. This could inhibit the democratic rights of individuals participating in NGOs by limiting the ability of the public to express its views on social and political issues. In addition, the approval requirement by the Slovak Ministry of Interior may lead to the elimination of foundations that the government perceives, for one reason or another, as undesirable. Given the antagonistic climate between the Slovak government and ethnic Hungarian organizations, this power may be wielded in a discriminatory manner.

FCNM Article 17(2) prohibits state parties from interfering with the right of individuals to participate in local, regional, national and international non-governmental organizations. This negative limitation on the government's activity is not to be dismissed. Although the Law on

Foundations does not prohibit the establishment of NGOs outright, it certainly has the potential effect of limiting their presence and activities.

9. Draft Legislation

a) The Law on the Protection of the Republic

The Law on the Protection of the Republic was first passed by the Slovak Parliament in March of 1996 and provoked immediate international criticism.²⁸¹ This measure, which would amend the Criminal Code, imposes stiff penalties for organizers of public rallies if the event is deemed to be aimed at subverting the constitutional system, territorial integrity or defense capability of the country.²⁸² Under the law, Slovak citizens could face up to two years in prison if found guilty of "disseminating false information abroad damaging the interests of the republic."²⁸³ For example, the offense of participation in public demonstrations with the intent to overthrow the state carries a twelve year prison sentence.²⁸⁴

These amendments were broadly drafted and fail to articulate with sufficient specificity what constitutes a violation. For example, under Article 91 it is unclear who defines what constitutes "undermining the country" Although the measure was passed by the Slovak Parliament, it was vetoed by President Kovac in April 1996 and returned to Parliament. In May 1996, Prime Minister Meciar said that debate on the amendments would be delayed indefinitely because a "wider democratic discussion" was needed to ensure the law's compliance with international human rights conventions.²⁸⁵ This assessment is certainly true, as the potential for arbitrary interpretation and abuses appear to be substantial and could result in criminal prosecution based on political beliefs. HZDS placed the amendments on the parliamentary agenda this fall. Parliamentary Chairman Ivan Gasparovic told the press on the eve of the new parliamentary session that although he had abstained from voting for the measure in March, if he had "known what would happen later during the [July] Budapest conference [where ethnic Hungarian autonomy

281. Officials from the EU and the United States Department of State expressed concern that the law could restrict freedom of speech, assembly and expression. The day after the amendments were passed, an EU delegation met with Slovak Foreign Minister Juraj Schenk to lodge a formal expression of concern about the measure. See Joe Cook, *Slovak Law Threatens Human Rights*, THE GUARDIAN, Apr. 12, 1996, at O13.

282. The Law on the Protection of the Republic, art. 92.

283. *Id.*

284. *Id.*

285. See generally PRAVDA, May 9, 1996.

was proposed] . . . , [he] would have probably pushed the 'yes' button."²⁸⁶ Despite Mr. Gasparovic's support, the amendments were again removed from the legislative agenda.²⁸⁷ After a milder version of the penal code amendments was passed in December of 1996, President Michal Kovac again vetoed the measure in light of continued opposition and the bill has since failed to gather sufficient support in Parliament to override the presidential veto.²⁸⁸

The freedoms of speech, assembly, and expression are deeply embedded principles of democracy and are codified in numerous international human rights instruments. The Universal Declaration of Human Rights proclaims that "[e]veryone has the right to freedom of thought, conscience and religion, . . . the right to freedom of opinion and expression, . . . the right to freedom of peaceful assembly and association."²⁸⁹ These rights are also recognized in the ECHR (Articles 9 through 11), and the CCPR (Articles 18, 19, 21, and 22). These established rights are also referenced with particular regard to national minorities. FCNM Article 9 specifically discusses the right of freedom of expression held by persons belonging to a national minority. This right is to be exercised "without interference by public authorities and regardless of frontiers."²⁹⁰ If passed without substantial alterations, the Law on the Protection of the Republic will inhibit many forms of democratic political demonstrations and manifestations.

While the protection of freedom of speech, assembly, and expression is a concern for all members of Slovak society, it is particularly crucial for ethnic minorities, especially Hungarians who are perceived as a political threat. It is unclear under these provisions whether actions such as a public manifestation or the call for the resignation of the Prime Minister by a Hungarian political party could be construed as an "effort to subvert the constitutional system." While this analysis is somewhat premature given the uncertain future of this legislation,²⁹¹ examination is

286. Sharon Fisher, *Slovak Parliamentary Chairman Defends Controversial Legislation*, 205 OMRI DAILY DIG. II (Oct. 22, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

287. Sharon Fisher, *Slovak Parliament Withdraws Penal Code Amendment*, II, 208 OMRI DAILY DIG (Oct. 25, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

288. Sharon Fisher, *Slovak Parliament Rejects Penal Code Amendment*, 30 OMRI DAILY DIG (Feb. 12, 1997) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

289. See *supra* note 132.

290. See FCNM *supra* note 71, art. 9(1).

291. On December 17, 1996, the penal code amendment was again passed by the Slovak Parliament. Although this measure omitted the penalty for "spread[ing] false information

prospective in the event that a majority of the Slovak Parliament believes that such legislation is necessary.²⁹²

D. Slovakia's Prospects for EU and NATO Accession

The Slovak government has been actively pursuing admission into the EU and NATO since the state's inception in 1993. Slovakia became a member of the Visegrad Club, four states considered to be next in line for EU membership, and had the outspoken ambition to become a member of NATO. Following secession from Czechoslovakia, the Slovak government set out to establish good relations with its neighboring states in an effort to gain Western favor. Within the framework of the European Stability Pact, Slovakia negotiated treaties on friendly relations and cooperation with four of its neighbors, the Czech Republic, the Ukraine, Hungary, and Poland. Despite these advancements, the coalition government has not proven its commitment to basic democratic principles.

The reluctance of the Slovak Republic to form a dependable alliance with its southern neighbor, together with disrespect of its Hungarian minority, centralization efforts, slow and questionable privatization methods,²⁹³ and an unproven economy count among the possible reasons why Slovakia should slip on the list of countries next in line for entry into the EU, NATO, and other western-oriented

abroad," opposition and trade representatives protested the law, claiming the measure continued to infringe upon basic freedoms. Mr. Jan Slota, Chairman of the SNS, stated that he was "very happy" with the measure's passage and asserted that the "integrity of the young Slovakia is jeopardized by some representatives of the Hungarian coalition and opposition." Slovak President Michal Kovac vetoed the controversial law on the protection of the republic on Dec. 31, 1996. Since this time, the amendments have not gained sufficient support to pass through the Slovak Parliament. See Sharon Fisher, *Opposition Protests Slovak Penal Code Amendment*, 243 OMRI DAILY DIG II, (Dec. 18, 1996); See also Sharon Fisher, *Slovak President Vetoes Penal Code Amendment*, 1 OMRI DAILY DIG. II (Jan. 2, 1997) (last visited Oct. 28, 1997) <http://www.omri.CZ/publications/DD/index.Dhtml>; Sharon Fisher, *Slovak Parliament Rejects Penal Code Amendment*, 30 OMRI DAILY DIG. II, (Feb. 12, 1997) (last visited Oct. 28, 1997) <http://www.omri.CZ/publications/DD/index.Dhtml> > .

292. On July 20, 1996, the Central Board of the SNS held a meeting in Zilina where it promised to use all legislative possibilities to re-debate the anti-subversion law. See generally *SNS Wants to Re-debate Amended Penal Code in Parliament*, DAILY NEWS MONITOR/TASR, July 20, 1996, at 2.

293. On November 21, the Slovak Constitutional Court held that legislation transferring control over privatization from the government to the National Property Fund was illegal. The National Property Fund had been criticized for selling state property through direct sales, frequently at prices well below market value. Sales were largely kept secret. Under the 1994 legislation, the government, the Supreme Supervisory Office and the courts had no control over the National Property Fund. All of the board members of the National Property Fund were representatives of the ruling government coalition. See Sharon Fisher, *Slovak Constitutional Court Rules on Privatization*, 227 OMRI DAILY DIG. II (Nov. 22, 1996) (last visited Oct. 28, 1997) <http://www.omri.CZ/publications/DD/index.Dhtml> > .

organizations. Political stability in Slovakia was seriously jeopardized in the summer of 1996 when HZDS coalition partners threatened to leave the partnership over disputes for control of the country's largest state insurance company, Slovenska Poistovna. The SNS and the Association of Slovak Workers threatened to derail the country's privatization process after their supporters were purged from Slovenska Poistovna's board of directors. The crisis was resolved when HZDS made concessions granting one opposition parliament member a position on the parliamentary commission that supervises the Slovak Intelligence Service. Demands have also been made to put opposition members on the parliamentary committees governing television and radio, something EU officials have stressed for some time.²⁹⁴ "A strong government in a strong democracy needs a strong opposition," asserted Mr. Werner Hoyer, plenipotentiary for EU matters, on his visit to Slovakia in June of 1996.²⁹⁵ The government's unwillingness to tolerate political dissent continues to be a frequently voiced concern of many Western diplomats.

Slovakia currently possesses the status of an associate member of the EU²⁹⁶ and has completed the EU's questionnaire, both of which are prerequisites for the upcoming EU expansion scheduled to begin in 1998.²⁹⁷ Slovakia's future membership in the EU, however, is in jeopardy. Criticism of the coalition government's policies and practices have come from numerous sources. EU Foreign Affairs Commissioner Hans van der Broek called on Slovakia to "further develop and strengthen democratic institutions and to respect ethnic minority rights and freedom of speech."²⁹⁸ Since Prime Minister Meciar won elections in 1994, the EU has delivered two diplomatic notes warning of the need for observance of human and political rights.²⁹⁹ The United States has also issued a demarche urging the

294. See Jan Stojaspal, *Slovak Coalition Moves Past Crisis*, THE PRAGUE POST, July 3 - 9, 1996, at 1.

295. Jana Dorotkova, *Kohl's Remarks Sour Slovakia's Supposedly Sweet Day*, THE SLOVAK SPECTATOR, July 31- Aug. 13, 1996, at 2.

296. See PAVOL BURAK, ET AL., *SLOVAKIA IN THE WORLD, THE WORLD IN SLOVAKIA* (1994).

297. See generally *Individual Talks With Candidates for EU Amalgamation in 1998*, DAILY NEWS MONITOR/TASR, July 19, 1996, at 2.

298. 42 OMRI DAILY DIG. II, (Feb. 28, 1996) (last visited Oct. 28, 1997) <http://www.omri.CZ/publications/DD/index.Dhtml>. (quoted in DAILY NEWS MONITOR/TASR FEB. 27, 1996). Van der Broek also expressed that he hoped Slovakia would soon pass legislation on minority languages, cancel its 10% import surcharge, show more openness to foreign investment, close unsafe nuclear reactors, and harmonize its legislation with that of the EU.

299. European Parliament, *European Parliament, Resolution on the need to respect human and democratic rights in the Slovak Republic*, Nov. 16, 1995; See also *EU/Slovakia: Van Den Broek Visits Bratislava But Not Meciar*, MONTHLY REP. ON EUR., No. 137, Mar. 1, 1996.

government to put a greater emphasis on the toleration of diverse opinions. United States Ambassador Ralph Johnson recently stated that if Slovakia sought admission into the EU and NATO, the state must be democratic "not only in its electoral process, but also in its laws, their implementation, and its preservation of individuals rights, including the right to disagree without being considered an enemy of the state."³⁰⁰ German Chancellor Helmut Kohl also questioned Slovakia's chances of early admission into the EU stating that he "deeply regret[s] that Slovakia's internal development is very harmful with regard to [early EU admission]."³⁰¹ Chancellor Kohl also added that Slovakia's chances "have not gotten better, they've gotten worse."³⁰²

Despite Western criticism, support for EU integration continues to rise among the Slovak public. A December 1995 poll revealed that 59.4% of Slovak citizens supported EU integration, up from 58.8% in June 1995.³⁰³ Slovakia's efforts to be among the first former communist nations to join the EU have been impeded by tensions between ethnic Hungarians and Slovaks, Bratislava and Budapest. These tensions have not been placated by ratification of the SHBT as EU officials had hoped.

NATO accession has also been imperiled by actions of the coalition government. The United States recently delivered a severe blow to Slovakia's chances of admission into NATO by refusing to include the country on a list of new democracies to be given \$60,000,000 in financial aid to facilitate NATO enlargement.³⁰⁴ Prime Minister Meciar explained on Slovak Radio on July 26, 1996 that Slovakia's omission could partly be attributed to the "many untruths [being] said about us abroad."³⁰⁵ Prime Minister Meciar dismissed the United States' position, asserting that the absence of Slovakia's inclusion on the congressional resolution was not on account of Slovakia's internal political situation, but rather because the nation's housing accommodations and shopping facilities do not meet the standards of the generals' wives.³⁰⁶ NATO membership is contingent upon improvements in Slovakia's respect for democratic values, respect for

300. Sharon Fisher, *United States, EU Call for More Democracy in Slovakia*, 206 OMRI DAILY DIG. II, (Oct. 23, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>> .

301. See generally *SNS on Kohl's Remarks on ORF*, DAILY NEWS MONITOR/TASR, July 18, 1996, at 4.

302. Jana Dorotkova, *Kohl's Remarks Sour Slovakia's Supposedly Sweet Day*, THE SLOVAK SPECTATOR, July 31-Aug. 13, 1996, at 2.

303. See generally DAILY NEWS MONITOR/TASR, Jan. 10, 1996.

304. Ben Barber, *Slovakia Ignored as NATO Grows*, WASH. TIMES, Sept. 7, 1996, at A14.

305. Tom Hundley, *Slovakia's Shifty Leader Irritates the West*, CHI. TRIB., July 28, 1996, at 4.

306. *Id.*

human rights, and the protection of minorities. One survey found support for Slovakia's entry into NATO among Slovaks to be 42.5%, up from 38.5% in June of 1996. However, opposition to integration was also significant and surveyed at 21.9%.³⁰⁷ A United States congressional aid asserted that Slovakia is subject to heightened scrutiny as one of the first post-communist states being considered for NATO membership.³⁰⁸ Entering the alliance is contingent upon the state's ability to settle neighborly disputes and domestic conflicts.³⁰⁹

Despite the steady increase in public support, opposition members of Parliament have questioned whether the government truly desires Western integration. Slovakia occupies a strategically significant segment of Europe being located between the expanding West and the newly democratic Soviet states and Russia. If Hungary, the Czech Republic and Poland join NATO as expected, Slovakia will abut the western alliance's eastern frontier, sandwiched between the amalgamated additions. One possible reason for Slovak resistance to Western integration is that it may threaten Slovakia's relations with Russia. Slovakia and Russia are substantial trading partners, with Russia ranking second in terms of imports to Slovakia and seventh in terms of Slovakia's exports.³¹⁰ Failure to construct a comprehensive program to fulfill EU and NATO accession requirements, coupled with the government unwillingness to accept the terms of integration, have provoked scepticism. MKDH Chairman Bela Bugár assessed that "[w]hen it comes to foreign policy or foreign integration, all the parliamentary groups should represent the same interests. There is no consensus but they have not even tried to make consensus in this field."³¹¹ Prime Minister Meciar, in the Russian daily *Trud*, stated that the aim of Slovak foreign policy was to balance its relations with the East and the West. He asserted that western integration would not force the Slovak government to "unconditionally agree with the West on everything."³¹² Despite speculation, Prime Minister Meciar

307. See generally SME, Jan. 12, 1996.

308. James Morrison, *Selling Slovakia*, WASH. TIMES, Feb. 26, 1996, at A17.

309. *Id.*

310. Sharon Fisher, *Slovak Prime Minister on Relations with Russia*, 196 OMRI DAILY DIG II (Oct. 9, 1996) <<http://www.omri.CZ/publications/DD/index.Dhtml>>. A free trade agreement with Russia is currently being prepared and should be signed by late June 1997. See Sharon Fisher, *Slovakia, Russia Strengthen Ties*, 229 OMRI DAILY DIG II (Nov. 26, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

311. Interview with Mr. Bela Bugár, Chairman of MKDH, in Bratislava, Slovakia (Aug. 1, 1996).

312. Sharon Fisher, *Slovak Prime Minister on Relations with Russia*, 196 OMRI DAILY DIG II, (Oct. 9, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

continues to profess the ultimate goal of NATO expansion. He blamed his opposition for the current questioning by the international community about the prospects of Slovakia entering NATO among the first wave of new post-Cold War democracies. The Prime Minister also accused "certain individuals, who are driven by their personal traumas" of sending negative information about the state abroad and thereby threatening Slovakia's chances for early integration.³¹³ HZDS supports a public referendum on NATO and EU membership. Such a measure is prompted by the frequent questioning of the benefits of Western integration posed by HZDS junior coalition partners, the SNS and the Association of Slovak Workers.³¹⁴

In the event that Slovakia is denied admission to both the EU and NATO while its neighbors accede to Western integration, minority rights in Slovakia could be further threatened. The ethnic Hungarian minority may become increasingly vulnerable because of the following reasons: 1) the government coalition will no longer have Western pressure to adhere to international human rights standards; 2) the country will be somewhat alienated by the West and may further solidify its eastern allegiances; and 3) politicians may attempt to use the Hungarian minority as a scapegoat in the event of the state's denial of EU and NATO admission. Many Hungarian political leaders have already made these predictions. Mr. Bugar stated:

[i]t is possible that if Slovakia is not integrated into the West, and the internal economic situation continues to worsen, members of the SNS or HZDS will try to escalate tensions between ethnic Hungarians and Slovaks in an attempt to distract attention away from the real issues, such as a failed economic policy. It is in our [ethnic Hungarian] interests to be integrated into the EU and NATO. . . . If we are integrated, this means that we have fulfilled the five basic requirements of NATO, one of which is solving the minority issue. . . . This is what we want.³¹⁵

This sentiment prompted over 500 ethnic Hungarians to converge on the town of Komarno in southern Slovakia to announce an open letter to EU

313. See Jiri Pehe, *Slovak Prime Minister on NATO, EU*, 200 OMRI DAILY DIG. II, (Oct. 15, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

314. See Sharon Fisher, *Slovakia Plans Referendum on EU, NATO*, 208 OMRI DAILY DIG. II, (Oct. 25, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

315. Interview with Mr. Bela Bugar, MKDH Chairman, in Bratislava, Slovakia (Aug. 1, 1996).

and NATO countries entitled, *Democracy is Endangered* which highlighted questionable measures of the Slovak government.³¹⁶ Statements like this prompted the government to accuse Hungarians of spreading disinformation abroad, thereby jeopardizing Slovakia's chances of integration.

It is clear that Slovakia has not attained the democratic threshold necessary to permit the state's accession into the EU and NATO. This conclusion is supported by the government's relentless control over media institutions, its questionable privatization methods, its disrespect for national minorities, and its failure to stabilize relations with Hungary. If Slovakia is hastily integrated into NATO, a revision of the Turkish-Greek conflict is possible. While the SHBT is a significant step towards placating tensions between the Hungarian and Slovak governments, it should only be considered one step down the rocky path toward building a friendly and trusting alliance. The Slovak government must adhere to its present obligations under international human rights law to protect its minority groups. Until the Slovak government sets the tone for tolerance, rather than division, towards the Hungarian minority, it is unlikely that a positive relationship between Slovakia and Hungary will be secured.

IV. CONCLUSION AND RECOMMENDATIONS

The historical context underlying present relations between the Hungarian minority and the Slovak majority has resulted in an exaggerated awareness of the need to safeguard Slovak ethnicity in the young republic. Protection of the Slovak nation is a sensitive and important government prerogative. The Slovak government's authority to take measures to defend its sovereignty and territorial integrity is not questioned. These interests, however, must be balanced by protections for all Slovak citizens regardless of nationality. The legislative measures analyzed in this report have furthered the interests of ethnic Slovaks while leaving persons belonging to a national minority vulnerable. Such initiatives are contrary to the letter and spirit of international agreements ratified by the Slovak government. As a multi-ethnic state, the Slovak government must resist urges to place the Slovak nation before the interests of national minority groups residing within its borders. All Slovak citizens must be treated in a fair and equitable manner.

Ethnic problems arise when individuals are discriminated against, denied their freedom of expression, or prohibited from exercising their cultural and linguistic practices. The Slovak government, while ratifying

316. Sharon Fisher, *Slovak Hungarians Complain to EU, NATO*, 194 OMRI DAILY DIG. II (Oct. 7, 1996) (last visited Oct. 28, 1997) <<http://www.omri.CZ/publications/DD/index.Dhtml>>.

international instruments aimed at securing the rights of minorities on the one hand, is simultaneously taking steps that increase ethnic tensions with the other. The government's willingness, on occasion, to manipulate ethnic tensions for political gain has cast doubt on its commitment to protect minority rights. Legislation restricting the use of the Hungarian language, decreasing support for Hungarian language education and cultural activities, and disrupting local representation in political life has resulted in resentment and discord among the Hungarian minority.

It must not be forgotten that as the Slovak government struggles to build a national identity from heterogeneous elements, the selection of a state language may be an important symbol and a practical necessity. From the point of view of the Hungarian minority, however, the selection of the Slovak language as the state language places members of the minority at a distinct disadvantage. It seems incumbent upon the state to ensure that this disadvantage is eliminated as far as possible. Language is the primary feature that unites the Hungarian minority in Slovakia. While uniting members of the Hungarian minority, language may also prove to be extremely divisive as it pits Slovak speakers against those whose mother tongue is Hungarian. Disrespect for minority languages has fanned the centuries-old flames of discontent, and language, unfortunately, has become the rallying cry for ethnic tension.

Many of the problems analyzed in this report may be attributed to weak drafting skills or lack of precedents that in due course will fill out the lacunae. Legal and institutional protection for the rights of minorities in Slovakia remain weak, specifically, the fragility of democratic institutions and the constitutionally-based rule of law generally. The Slovak government has promised that other laws are forthcoming, albeit at a modest pace, that may modify the contents of the legislation in question. In light of nationalistic tendencies prevalent in Slovakia, recently promulgated legislation presents a disquieting picture of Slovak life. Rather than implementing the philosophies of decentralization and transfrontier cooperation, antediluvian notions such as continued centralization of state power and disrespect for the value of national minorities continue to dominate Slovak political life. If the ruling coalition truly strives to integrate into both the EU and NATO, extensive effort needs to be made to resolve domestic disputes. Efforts need to be made not only in the arena of minority relations, but also in all areas of society where conflicting opinions arise.

The Slovak government must abide by its obligations under international and national law to protect the human rights of members of the Hungarian minority, specifically, to:

- 1) Respect the Hungarian minority's constitutionally guaranteed rights, contained in Article 34, to "promote their cultural heritage," "receive and disseminate information in their mother tongues, form associations, and create and maintain educational and cultural institutions," "be educated in a minority language," "use a minority language in official contacts," and "participate in decision making in matters affecting" them. These constitutional rights should not be limited, restricted or eradicated by domestic legislation, as the free exercise of these rights does not threaten Slovak sovereignty or territorial integrity;
- 2) Promulgate legislation, as promised, defining the permissible use of minority languages in the Slovak Republic. This measure should be in accordance with the state's obligations under the SHBT, Recommendation 1201, the FCNM and the ECHR. In light of the geographical concentration of the Hungarian minority in southern Slovakia, special consideration should be given to the use of the Hungarian language in administrative contacts throughout this region. This accommodation will protect members of the Hungarian minority from possible discriminatory effects caused by the Language Law's prohibition on the use of minority languages in this context;
- 3) Establish a commission, comprised of minority representatives, to monitor the implementation of the Language Law to guarantee that its provisions are not fulfilled in a discriminatory manner;
- 4) Modify its alternative education plan to ensure that acceptance of bilingual education is truly voluntary;
- 5) Support, facilitate and provide for education in the Hungarian language, an adequate number of classes for Hungarian students at all levels, ensure that teachers are properly-trained to teach in the Hungarian language; and enable a sufficient number of Hungarian students to attend the Nitra Pedagogical College to receive teacher training;
- 6) Develop a program aimed at increasing minority enrollment in universities;
- 7) Amend legislation authorizing the government appointment of district administrators and the district's state administration board to allow for the election of these local representatives;

- 8) Amend the territorial division legislation to more adequately decentralize government control of local affairs and increase the participation of the Hungarian minority in government. These amendments should reflect suggestions contained in the Explanatory Report to the FCNM, the European Charter of Self-Government and the CRLAE Recommendation 250;
- 9) Respect the use of traditional Hungarian Christian names;
- 10) Respect the posting of bilingual public signs, especially signs indicating historic place names;
- 11) Allocate spending on minority culture in a proportional and non-discriminatory manner;
- 12) Reduce the statutory mandates on financial thresholds created by the Law on Foundations to better facilitate growth in this sector;
- 13) Make substantial changes to the Law on the Protection of the Republic to ensure that the freedoms of speech, association and expression are protected in accordance with international human rights principles;
- 14) Adopt an affirmative plan to recruit more members of the Hungarian minority into government positions to ensure the adequate and fair representation of all Slovak citizens. This recommendation is particularly important in the ministries of Education and Culture;
- 15) Allow members of the Hungarian Coalition access to parliamentary committees, particularly the committee on radio and television, state security, and culture;
- 16) Strengthen legal mechanisms for protecting the legal rights of the Hungarian minority, including making revisions, where necessary, to facilitate the ability of citizens to challenge government decisions, including those of local authorities;
- 17) Implement an educational program for judges aimed at incorporating international human rights standards into court decisions;
- 18) Take additional measures to guarantee the independence of the judiciary;

- 19) Take affirmative actions to reduce tensions between minorities and the Slovak majority. Efforts should be made to introduce educational programs on minority rights, minority history and culture, and human rights standards. Human rights training programs should be provided for the police, government officials, local authorities, and teachers;
- 20) Establish a commission, comprised of government, opposition and minority representatives, to investigate anonymous threats, and physical and verbal harassment to journalists and opposition political leaders;
- 21) Abandon its attempts to deprive democratically elected officials of their positions;
- 22) Refrain from misusing its authority to replace political opponents with government sympathizers; and
- 23) Distance itself from extremist views, whether they be nationalist, xenophobic, or anti-Hungarian.

It is incumbent upon the Slovak government to set the tone of respect for members of national minorities. Rather than provoke ethnic division and unrest, the Slovak government should serve as a model for a tolerant and civil atmosphere. Claims of Hungarian irredentism should not be used to vilify the Hungarian minority in Slovakia. Territorial claims have repeatedly been refuted by the Hungarian government. In addition, representatives of the Hungarian minority in Slovakia have repeatedly stated that they do not want to reunify with Hungary. What ethnic Hungarians do want is the right to live free from discrimination in Slovakia. In closing, Mr. Bugar's words are appropriate:

We only want the right to remain Hungarian. This is the ethnicity and language of our parents, grandparents and great-grandparents. Hungarians in this region have a very good habit which has worked for centuries. The more they beat us, the more we protect ourselves and organize to resist their attacks. [Many people] fear this situation now. There is an old Hungarian idiom: You can't catch a sparrow with a gun. This holds true for us now.³¹⁷

317. Interview with Mr. Bela Bugar, Chairman of MKDH, in Bratislava, Slovakia (Aug. 1, 1996).