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### EDITORIAL

#### JARMILA LAJČÁKOVÁ

*"In my opinion, the issues examined by [Minority Policy in Slovakia] are decisive for our future development course. I know that the main emphasis in recent years has been on the challenging task of building sustainable and competitive economy, which is indispensable to the state's existence and people's standard of living. At the same time, I know that even if we succeed in creating a wealthy and prosperous community, it may not be enough. One needs more than that to lead a decent and fulfilling life. We should all strive to make our community ever more open and ever more tolerant. And that is an equally challenging task, especially because the results of such an effort are not as easily demonstrable as state budget figures ... I don't know if and when we succeed to*

## PROPOSED CHANGES TO FAMILY ALLOWANCE AND CHILDBIRTH ALLOWANCE SEEM UNCONSTITUTIONAL

JARMILA LAJČÁKOVÁ

In late April 2011, a quartet of ruling parties' MPs – Ľudovít Kaník (SDKÚ-DS), Kamil Krnáč (SaS), Štefan Kužma (SDKÚ-DS) and Zoltán Horváth (SDKÚ-DS) – submitted to parliament two bills that seek to change eligibility conditions with respect to family allowance and childbirth allowance. According to the currently valid legislation, all parents are eligible to receive €678.49 upon the birth of their first, second and third child and subsequently receive a monthly allowance of €190.10 until the child reaches the age of three. The bills proposed to abolish childbirth allowance completely and reduce family allowance by 50 percent (from €190.10 to €95.05) for those families of which neither parent held health insurance policy for at least 270 days during the four years preceding the childbirth. In other words, parents who have been unemployed in the long term. Let us now take a closer look at the population groups that are most likely to be affected by both bills.

### UNLAWFUL INDIRECT DISCRIMINATION AGAINST ROMANI WOMEN AND CHILDREN

The proposal views secondary school or university studies as equal to employment. The low percentage of Romani students at secondary schools and universities indicates the population group primarily targeted by the amendment. The initiators of the so-called Kaník amendment were apparently aware that recipients of material poverty benefits would be among those most severely affected by it, which is why they also proposed that reducing the family allowance would not automatically make those concerned eligible for increased material poverty benefits. After all, the bills' justification report was rather outspoken about the intended target group as it specified that the amendment was aimed at eliminating the undesirable motivation "of socially excluded population groups to secure and increase their income through welfare benefits pegged to the number of children".<sup>1</sup>

*"The bill is the case in point of so-called indirect discrimination, which is the most perfidious kind of discrimination, when a 'seemingly' neutral rule has in fact a disproportionately negative impact on one population group."*

Both proposed bills use the term of socially excluded communities (SEC), which is the most recent euphemism to refer to the Roma who live in poverty. The term should be officially introduced by the bill on SEC that is currently being drafted by the Ministry of Labour, Social Affairs and Family. The Kaník amendment applies the term to refer "primarily to socially excluded communities the dominant society calls 'Romani', which can be found in the form of urban concentrations and separated or segregated rural settlements".<sup>2</sup>

The fact that the principal motivation of the Kaník amendment is to reduce and/or abolish the most important welfare benefits the Roma receive from the system of state social support can be illustrated by the widespread stereotype reproduced by the justification report: the Roma conceive children primarily to squeeze money out of the state-sponsored social security system. While the amendment will undoubtedly affect other population groups threatened by poverty and social exclusion as well, its apparent subscription to the said stereotype indicates that the amendment is aimed primarily against the Roma and particularly against Romani women and children.

Kaník's proposal is the case in point of so-called indirect discrimination, which is the most perfidious kind of discrimination, when a 'seemingly' neutral rule has in fact a disproportionately negative impact on one population group. The currently valid Antidiscrimination Act outlaws indirect discrimination, which it defines as "a seemingly neutral rule, decision, instruction or practice that discriminates against one person in comparison to another".<sup>3</sup>

1 A justification report that accompanied the proposed bills, p. 1.

2 Proposed legislative intent drafted by the Ministry of Labour, Social Affairs and Family, a version of June 1, 2011, p. 4 acquired by the author.

3 Article 2a, Paragraph 3 of the Law No. 365/2004, also known as Antidiscrimination Act.

*leave the path of confrontation and get onto the path of tolerance, but I know that the so-called long-term and sustainable development lies only somewhere along the path of tolerance...*"

Jana Dubovcová, MP, on the maiden edition of *Minority Policy in Slovakia*

Our research centre encourages this course of development by examining government's minority policy from the viewpoint of justice and human dignity. We proceed from the axiom that all inhabitants—i.e. not only members of the national, language or religious majority—should be able to demand government to do everything in its power to create conditions for them to lead a dignified life. They have the right to be treated as equals by government organs, not based on historical stereotypes. They should not be forced by government to surrender their different cultural identities and mingle with the "majority". Last but not least, they have the right to participate in shaping policies that affect their chance to lead a dignified life.

Examining most noteworthy developments in this area in the second quarter of 2011, the second edition of *Minority Policy in Slovakia* praises forming the Committee for National Minorities and Ethnic Groups at the Slovak Government's Office as a milestone on the path toward minorities' increased participation in shaping government's minority policies. Tina Gažovičová offers one example of such participation in her article on cooperation between the Vietnamese community and a primary school in Bratislava's Nové Mesto district that seeks to improve the quality of life of local Vietnamese children. Perhaps such grass-root initiatives are the best way of achieving progress as Alena Chudžiková in her story on Migrant Integration Policy Index points out that Slovakia is substantially lagging behind in this respect.

On the other hand, Zoltán Szalay in his article analyzing the amendment to Minority Language Use Act argues that even an imperfect law may protect minorities against gradual language assimilation. Sadly, the president's decision to veto the said amendment shows not only that the mental gap between ethnic Slovaks and national minorities remains unchanged but also that the rhetoric used by political leaders does not help in closing it. A different aspect of the majority-minority clash is addressed by Tina Gažovičová in her article about a recent amendment to Burial Act, which speaks of unspoken religious boundaries and intolerance to those who profess other than the Christian faith.

The most deplorable development in the field of minority policy in the second quarter of 2011 was an amendment that sought to reduce family allowance by 50 percent and completely abolish childbirth allowance primarily (but not only) for parents and children from marginalized Romani communities. The proposal, which already breezed through first two readings in parliament, is the case in point of unscrupulous discriminatory policy that further punishes the victims of social exclusion and particularly one of the most threatened population groups in Slovakia—Romani children. The amendment is rooted in stereotypical ideas of majority male members of the middle and higher socio-economic class about the Roma who live in extreme poverty. This populist bill very effectively builds on a deeply rooted fear shared by many members of the majority that the Roma pose a demographic threat to them. Such legislation has no place in a decent democratic society that honours fundamental human rights.

Unfortunately, this arrogant initiative cast a spreading shadow over government policies aimed at improving the Roma's living conditions that could not pass unnoticed. While the legislative intent of the bill on socially excluded communities does not seem thoroughly thought-out, we believe the Ministry of Labour, Social Affairs and Family is drafting it in good faith; nevertheless, it must take pains to avoid undesired negative implications that may paradoxically be multiplied by the mentioned initiative of four government MPs.

The second quarter of 2011 has brought some praiseworthy, several less positive and one outrageously negative development in the field of minority policy. We tried to address all of them in the present issue and we hope it will inspire our readers' thoughts and ideas. We shall look forward to their reactions, comments and proposals of how to make the Slovaks, in the words of MP Dubovcová, leave the path of confrontation and get onto the path of tolerance. ■

Reducing the family allowance and abolishing the childbirth allowance will most probably pass unnoticed by most regular Slovak families with children; on the other hand, the measure is likely to have an immediate and dramatic effect on Romani families living under the poverty line. The already mentioned bill on socially excluded communities drafted by the Ministry of Labour, Social Affairs and Family used a rather flowery language when describing individuals' chances to escape social exclusion and concentrated poverty, especially those who are placed into special classes or schools at early stages of the education process: "The chances of excluded communities' inhabitants to extricate themselves from the environment of concentrated and generation poverty on their own are minuscule. Government has the responsibility to pursue policies aimed at improving the alarming situation as well as the obligation to seek all available tools and possibilities that leads toward a permanent change ... any individual regardless of their characteristics or makings that grows up in the environment of concentrated poverty is very unlikely to be able to mobilize their individual potential and overcome social exclusion."<sup>4</sup>

Inhabitants of segregated Romani settlements and urban ghettos thus have almost no chance to escape from this environment on their own; as a result, they have an equally minuscule chance to find a job and pay health insurance to be eligible to receive benefits from the already modest system of state social support. To sum it up, the Roma are structurally discriminated against in the field of education, housing, health care and employment. As if that was not enough, the proposed bills seek to punish them further—unjustifiably and undeservedly—for their social exclusion.

In our opinion, the Kanik amendment seeks to introduce multiple indirect discriminations based on race, ethnicity and sex. We believe it is incompatible with Article 12, Paragraph 1 of the Constitution of the Slovak Republic that explicitly outlaws discrimination (both direct and indirect) in connection with Article 41, Paragraph 5. We also believe it directly contradicts Article 3e) of the EU directive that implements the principle of equal treatment regardless of racial or ethnic origin, breaches Article 5, Paragraph e) of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 26 of the International Covenant on Civil and Political Rights, and Article 2, Paragraph 2 as well as Article 10 of the International Covenant on Economic, Social and Cultural Rights. The said bills seek to sanction Romani children and punish them "for their parents" and therefore they also violate Articles 2.1 and 2.2 as well as Articles 18.2, 26 and 27 of the International Convention on the Rights of the Child.

#### DISCRIMINATORY REPRODUCTION POLICY

While it does not appear so on the first glimpse, the Kanik amendment is a form of policy with respect to the Romani minority. Unfortunately, it is not based on the principle of equality and justice; on the contrary, it is based on the fear of the Roma who are portrayed as a demographic threat. Both proposed bills infringe on reproduction rights of one population group and as such they violate Article 16, Paragraph 1 e) of the International Convention on the Elimination of All Forms of Discrimination against Women. Reproduction rights guarantee that everyone, regardless of their affiliation to a group that is 'more or less popular with the majority', shall have an equal right to decide on the number of children. Government must not adopt a policy that in a fundamental way affects reproduction choices of members of one ethnically and socially defined population group. In their own way, both proposed bills seek to build an ethnically homogeneous state that strives—in a rather violent way—to eliminate dissimilarity from society (please see also the editorial

*"Reproduction rights guarantee that everyone, regardless of their affiliation to a group that is 'more or less popular with the majority', shall have an equal right to decide on the number of children. Government must not adopt a policy that in a fundamental way affects reproduction choices of members of one ethnically and socially defined population group."*

4 Justification report to a legislative intent of the bill on SEC, p. 3 and 6.

of *Minority Policy in Slovakia* No. 1/2011). The two most likely effects of the Kanik amendment will be increased social tension and deepened poverty of Slovak Roma. According to Will Kymlicka, progress is paradoxically achieved via conflict and physical violence (or threat), which is probably the only force to make those in power realize that “something must be done”.

Parliament has discussed both proposed bills in the second reading. The Committee for Human Rights and National Minorities rejected both of them. The Constitutional Committee turned down the proposed amend-

ment to the law on family allowance while supporting changes to the system of childbirth allowance. The social affairs committee as well as the financial and budgetary committee endorsed both bills. Unfortunately, racist bills in Slovakia have a fair chance to boost popularity of their initiators. Our only hope is that Slovakia’s legislative assembly has enough decent members who will base their decision on the bills’ support in the third and final reading on the Slovak constitution and international human rights conventions that take precedence to the national law. ■

## BILL ON SOCIALLY EXCLUDED COMMUNITIES MAY HAVE UNDESIRABLE IMPLICATIONS

JARMILA LAJČÁKOVÁ

In line with the incumbent administration’s program manifesto adopted in July 2010, the Ministry of Labour, Social Affairs and Family launched preparatory works on the bill on so-called socially excluded communities (SEC) in the second half of 2011. Task forces that participate in draft-

*“[The goal of the proposed bill] is to create a systemic legislative framework for a fundamental improvement of the situation of members of socially excluded communities in key areas such as education, housing, employment, social affairs and health care...”*

ing the bill comprise representatives of other ministerial departments as well as non-governmental organizations. The bill’s final draft should be submitted for cabinet’s approval in August 2011.

According to a still incomplete document that was made available by ministry officials, the principal objective of the proposed legislation is to “create a systemic legislative framework for a fundamental improvement of the situation of members of socially excluded communities in key areas such as education, housing, employment, social affairs and health care and thus create basic prerequisites

for sustainable improvement of living standard in these settlements as well as for individual social inclusion of their inhabitants”.<sup>1</sup> The proposal defines areas or regions of concentrated poverty based on demographic, socio-economic and educational criteria as well as employment and housing standard indicators. As of this edition’s deadline, policy makers have not put together desirable measures in all areas (i.e. education, housing, social services and employment), which is why it is impossible to evaluate the proposed legislative bill in a complex way; however, having read the available document, we are compelled to point out several aspects that may lead to undesirable effects of the currently drafted legislation.

### SITUATION OF MARGINALIZED ROMA IS REDUCED TO A MERE SOCIAL PROBLEM

Most importantly, the drafted bill targets members of SEC, regardless of their ethnic affiliation. Labour ministry officials thus remain reluctant to adopt policies based on the ethnic principle; instead, they continue along the lines of previously pursued policies in this area that introduced the term of “socially disadvantaged population groups”, this despite their proclaimed awareness that social exclusion in Slovakia “has primarily ethnic roots and the related institutional discrimination is (also historically) one of the basic determinants of social exclusion”.<sup>2</sup> The ministry’s approach is particularly surprising given the failure of previously pursued policies aimed at improving the living conditions of the Roma, which may have been partly caused by inability (or unwillingness) to address the ethnic roots of struc-

*“While the bill’s initiators are aware that social exclusion in Slovakia has primarily ethnic roots, they explicitly refuse to adopt a policy based on the ethnic principle.”*

tural discrimination of this ethnic group. We believe that an optimal policy in this area should carefully try to combine the social approach with the ethnic approach that treats the Roma as the national minority.

### INABILITY OR UNWILLINGNESS TO TACKLE THE ROOTS OF SOCIAL EXCLUSION

The proposed bill’s legislative intent fails to tackle the roots of social exclusion. They largely stem out of the fact that majority institutions expected to integrate the Roma fail to create necessary space for their inclusion and remain unchanged; instead, public policies focus on ‘adapting’ the Roma, which may bring about unintended negative implications that today may be observed especially in the field of education. According to the released document’s section that deals with education, the bill apparently does not envisage the kind of change within the country’s education system that would create space for Romani children’s inclusion. For instance, the bill does not aspire to change the existing model of primary education that excessively focuses on study results and is based on the set of ‘standards’ children from Romani settlements find difficult to comply with due to their specific social and cultural needs. That is one of fundamental reasons why children from marginalized Romani communities continue to fail in Slovakia’s education system. The proposed legislation does not seek to introduce inclusive education that would allow all children to succeed and focus on raising decent citizens instead of geniuses with encyclopaedic knowledge; after all, such an ambition is hardly imaginable as it would go significantly beyond competence and powers of the labour ministry.

*“Particularly due to people’s more or less correct information about the total amount of funds to be allocated to the initiative, the result may be further stigmatization of Romani children who will be portrayed as an ‘incapable’ burden for the majority and, subsequently, justification of segregationist practices in the form of special educational programs.”*

Our main concern is that the well-intended programs of financial assistance and preferential acceptance of children from SEC into pre-school establishments where they are “adapted” to the education system through assistance programs may in the practice lead to undesirable increase in interethnic tension and preservation of segregationist practices. Also, enacting such policies seems problematic as there are no impact studies that would examine whether the proposed policies would truly lead to integration. Temporary equalization measures that are the proposed bill’s main focus do not seek to change the existing structures; consequently, their chances to facilitate a true change, for instance in terms of building a Romani middle class, are rather slim. In other words, the measures are unable to bring about a substantial increase in the number of successful graduates from standard primary and secondary schools (let alone universities) hailing from marginalized Romani communities. Particularly due to people’s more or less correct information about the total amount of funds to be allocated to the initiative, the

1 Working draft of the bill’s legislative intent prepared by the Ministry of Labour, Social Affairs and Family and released on June 1, 2011, p. 4 of the author’s copy.

2 Ibid, p. 24 of the author’s copy.

result may be further stigmatization of Romani children who will be portrayed as an 'incapable' burden for the majority and, subsequently, justification of segregationist practices in the form of special educational programs.

### PASSING THE BILL THREATENS TO CONSERVE THE *STATUS QUO*

Last but not least, the basic difference between this strategy and a number of past government policies aimed at integrating the Roma is that the most recent initiative should be in the form of a law. The bill's initiators apparently hope to lend greater authority and legitimacy to their integration strategy; however, it is the very legislative form that may reduce the strategy's ability to react to changing practical needs as they arise. Since we believe that the mentioned problematic aspects of the proposed bill are essential, we are afraid that passing the bill might cement the highly unsatisfactory *status quo*. Also, we see further risks that significantly limit the labour ministry's well-intentioned effort; they have to do with the strategy's unclear model of financing and limited political will on the part of other ministerial departments (i.e. education, finance and construction). We believe enacting a legislative framework for successful and time-tested projects that are currently in the labour ministry's competence (e.g. field social work) would produce more positive results. ■

#### GLOSSES

## ETHNIC PRINCIPLE IN THE BILL ON SOCIALLY EXCLUDED COMMUNITIES REMAINS UNADDRESSED

STANO DANIEL

One partially acceptable argument for the need of the Act on Socially Excluded Communities is that it would help in designing better targeted policies. Unfortunately, all people saying this forget to say that these policies would be aimed at socially excluded Roma and the only reason for need of the Act is that no government, including this one, could have imagined a policy that would anyhow, even partially, be focused on ethnic group.

It is not clear where the fear to do so comes from. For several years Slovakia was using *marginalised Romani communities* as a target group of the national, regional and local policies. Failure of these policies was never because of vague or abstract definition of target group. The reasons are extremely high administrative burden, lack of involvement of Roma in decision-making process and many other partial failures that will most probably not be addressed by the Act on Socially Excluded Communities. At least these issues have not been discussed yet.

There are two big risks of this new legislation. First, the Act will contribute to further labelling of Roma and perception of Roma only as a target group of social policies. Secondly and in line with the first objection, the Act is ignoring ethnic dimensions of today's statute of Roma in Slovakia and historical reasons of social exclusion of Roma. Ethnic discrimination of Roma is not part of discussions and remains unaddressed. There are significant signals to believe that after the Act on Socially Excluded Communities is approved, there is a high risk that officials will feel that all Roma-related issues have been addressed and it will be very hard to persuade them to do further amendments of legislation regarding Romani minority.

## PARLIAMENT PASSES CLIPPED AMENDMENT TO MINORITY LANGUAGE USE ACT, PRESIDENT REFUSES TO SIGN IT

JARMILA LAJČÁKOVÁ AND ALENA CHUDŽÍKOVÁ

### THREAT INSTEAD OF JUSTICE

The previous edition of *Minority Policy in Slovakia* brought optimistic news about a long-awaited amendment to Minority Language Use Act that was approved by the cabinet and subsequently submitted to parliament. The bill's final version sought to lower the required share of national minorities to be able to use their native language in official contact from 20% to 15% of the local population; the original draft proposed to lower the quorum to 10%. Although ministers for all four parties of the incumbent ruling coalition agreed on the bill's compromise version, deputies for two ruling parties (Christian Democratic Movement and Freedom and Solidarity including Ordinary People) expressed reservations to the bill during parliament's deliberations. Eventually, President Ivan Gašparovič refused to sign the passed bill into law and referred it back to parliament.

*"The issue at stake was not how to draft legislation that would grant minorities best possible chances to preserve their mother tongue and ideally put them on equal footing ... the legislators' effort focused on how to prevent Magyarization of ethnic Slovaks through this law."*

The lengthy parliamentary debate, negotiations within particular caucuses and views presented by individual deputies for ruling as well as opposition parties indicate that the principal motive affecting the legislative process was not meting out justice but the feeling of threat. In other words, the issue at stake was not how to draft legislation that would grant minorities best possible chances to preserve their mother tongue and ideally put them on equal footing while protecting them from apparent language assimilation that is further catalyzed by State Language Act. The legislators' effort focused on how to prevent Magyarization of ethnic Slovaks through this law.

Quite paradoxically, sociological data clearly document the opposite phenomenon, i.e. language assimilation of members of the Hungarian minority. Empirical data gathered by the Forum Institute for Minority Research indicate that the share of ethnic Hungarians who speak Hungarian dropped significantly in all areas of public communication over the past ten years (e.g. from 45 to 30 percent in shops, from 20 to 14 percent in official contact and from 64 to 56 percent among neighbours). The same is true about private communication within and between ethnic Hungarian families. One in five ethnic Hungarian respondents admitted speaking Slovak to their ethnic Hungarian partners; 23% of them speak Slovak to their children; finally, 25% of children from ethnic Hungarian families speak Slovak among themselves.<sup>1</sup>

*"Sociological data clearly document the opposite phenomenon, i.e. language assimilation of members of the Hungarian minority."*

### CLIPPED AMENDMENT TO MINORITY LANGUAGE USE ACT

The amendment to Minority Language Use Act was supposed to provide protection of members of national minorities against assimilation and create conditions for the use of their respective mother tongues if they freely choose so. The amendment's version parliament passed on May 25, 2011,

1 The data gathered by researcher Zuzana M. Lamplová were cited by SITA news agency on May 12, 2011.

was severely clipped. It did lower the eligibility quorum for the purpose of using minority languages to 15% but added a condition that the required share of minority members on the local population must be confirmed by two consecutive population censuses. Also, the use of minority languages in official contact was restricted by a provision that allows public authorities to reserve specific office hours to communicate in minority languages.

*“Unfortunately, the dynamism of negotiations prevented Slovakia from finally passing legislation ... that would not be based on the false fears of ethnic Slovaks’ assimilation but on the country’s international commitments.”*

Social service and medical establishments in minority municipalities may communicate in minority languages “if conditions so allow”. Last but not least, the amendment stipulated that local council deliberations in minority languages must be authorized by the local council chairman.

Unfortunately, the dynamism of negotiations prevented Slo-

vakia from finally passing legislation regulating the use of minority languages that would not be based on the false fears of ethnic Slovaks’ assimilation but on the country’s international commitments; still, the final version of the amendment to Minority Language Use Act may be considered a certain achievement, especially given the relatively vivid response the recently amended Hungarian constitution caused in Slovakia.

## UBIQUITOUS FEARS OF ETHNIC SLOVAKS’ ASSIMILATION

On June 15, 2011, President Ivan Gašparovič referred the passed bill back to parliament. Besides formal shortcomings, the president’s decision to veto the bill<sup>2</sup> stated several arguments we found particularly disturbing given the current situation in the field of interethnic relations in Slovakia.

The principal argument presented by the president was that it was impossible to put minority languages on an equal footing with the state language<sup>3</sup> because State Language Act explicitly anchored the Slovak language’s dominant position.<sup>4</sup> Language is among basic attributes of nation

2 The full version of the president’s justification is available at: <http://www.nrsr.sk/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=5&ID=424,20.6.2011>

3 “The use of minority languages in oral and written communication in official contact with public administration organs, including submission of written documents and evidence ... as well as issuance of birth certificates, marriage certificates, death certificates, permissions, authorizations, licences, statements and announcements by municipalities [i.e. municipalities where members of national minorities make up at least 15% of the local population according to two consecutive population censuses – note by authors] would in fact amount to putting minority languages on an equal footing with the state language in [these] municipalities ... I cannot approve of that.” (Decision by the President of the Slovak Republic to veto the Law of May 25, 2011, that amends and alters the Law No.184/1999 on the Use of Languages of National Minorities as amended by the Law No. 318/2009, Bratislava, June 13, 2011; Document No. 1690-2011-BA).

4 “State language on the territory of the Slovak Republic shall be Slovak

and national identity, which was after all declared by State Language Act’s preamble with respect to the Slovak nation.<sup>5</sup> The president’s interpretation of language inequality implies inequality of people that use the said languages.

The president criticized the bill’s provision according to which “citizens of the Slovak Republic who belong to national minorities may use minority languages in oral official contact even in municipalities that do not comply with conditions stipulated by Paragraph 1 [i.e. municipalities where members of national minorities do not make up at least 15% of the local population according to two consecutive population censuses – note by authors], provided that concerned public officials and their clients so agree.” According to the president, the provision restricts the rights of statehood nation.<sup>6</sup>

Although cited sociological surveys suggest that the long-term assimilation trend goes in the opposite direction, i.e. toward assimilation of members of national minorities, the president’s arguments are imbued with fears of ethnic Slovaks’ language and cultural assimilation. The document repeatedly insinuated that the bill’s provisions would lead to discrimination against “other inhabitants” (i.e. members of the Slovak nation), although they explicitly stipulate that the use of minority languages requires consent on the part of “other inhabitants”.<sup>7</sup>

Regardless of the president’s reasons, we are compelled to repeat the question formulated in the previous edition of this quarterly:<sup>8</sup> should government be vested with the power to dictate the language of communication between two citizens, even if the communication in question is official? The information on which the president based his veto remains unclear. Yet, his veto of the amendment to Minority Language Use Act made at least two things clear: first, the mental gap between ethnic Slovaks and national minorities living in Slovakia remains unchanged and even tends to grow wider; second, the rhetoric used in the country’s political discourse does not help in closing it. ■

The state language shall take precedence to other languages used on the territory of the Slovak Republic” (Article 1, Paragraphs 1 and 2 of the Law No. 357/2009 on State Language).

5 “The National Council of the Slovak Republic, aware of the fact that Slovak language is the most important hallmark of the Slovak nation’s distinctiveness and the most precious value of its cultural heritage...” (Law No. 357/2009 on State Language).

6 Decision by the President of the Slovak Republic..., p.7.

7 Head I Section 5 Article 3 Paragraph 2 of the Law of May 25, 2011, that amends and alters the Law No.184/1999 on the Use of Languages of National Minorities as amended by the Law No. 318/2009.

8 Lajčáková, Jarmila, 2011: “May Government Dictate the Use of Language?” *Minority Policy in Slovakia* No. 1/2011, pp. 5-6.

# THE RETURN OF EXILED LANGUAGES AMENDMENT TO MINORITY LANGUAGE USE ACT IN THE CONTEXT OF SLOVAK MINORITY POLICY

ZOLTÁN SZALAY

*“The mental context is equally important here as it is primarily the mental pressure mounted by government’s language policy that has forced members of national minorities to give up their identity and assimilate slowly but surely.”*

## SILENCED IDENTITY

If you walked down the main street of any Slovak town where members of some national minority form majority of the local population, you would most probably be unable to guess its actual ethnic make-up. The reason is that regardless of the town’s ethnic make-up, a vast majority of public notices and signs are written in one language – the state language. If you took a closer look at the situation, you would find out that an absolute majority of enterprises, shops, restaurants, factories and institutions whose signboards are inscribed in a single state language is owned by members of the national minority.

In towns like Dunajská Streda or Komárno ethnic Hungarians still represent a majority but the face of their streets and public places does not reflect this fact. Why is that? There is no official ban on inscribing signboards in languages of national minorities and it would seem completely natural that shopkeepers and other businesspeople lure their potential customers in their mother tongue. But as we will soon explain, government's language policy that stands behind this reality is not based exclusively on direct bans.

It is a long story that naturally has a broad historical and political context. But the mental context is equally important here as it is primarily the mental pressure mounted by government's language policy that has forced members of national minorities to give up their identity and assimilate slowly but surely.

For the sake of illustration, let us tell you a typical story from a town where most residents belong to a national minority. Clerk "A" who works at a local government authority puts up a note on the office door of his colleague "B", informing potential clients that colleague "B" will be out of office for the rest of the week and all the clients should turn to clerk "A". The note is bilingual, with state language on top and minority language below. One should bear in mind that the authority is often visited by residents from nearby small villages that usually do not have sufficient command of the state language and the only language they speak is their mother tongue. Now boss "C" sees the note and orders clerk "A" to remove the part of the note that is written in minority language. Clerk "A" timidly asks whether he will not breach the law on the use of minority languages, which states that all important public signs, especially notices, warnings and medical notifications, must also be written in minority languages in all municipalities where members of national minorities make up at least 20 percent. Boss "C" considers the concerns of clerk "A" in this particular situation idle and removes the text in minority language himself.

## DISPLAYS OF LINGUISTICISM IN SLOVAKIA

The story may seem banal on the first glimpse but it nevertheless reveals absurdity that characterizes the entire problem. It is the story of indirect pressure from government that is often rather subtle, showing mostly through political leaders' statements, government officials' indifferent or even hostile rhetoric and clerks' silent tolerance of this language 'racism'. It is the story of government and majority society resorting to indirect pressure that is stronger

*"The symptoms of the long practice of linguisticism on the part of government can be traced ... in several central and eastern European countries including Slovakia. [In essence, it is] language genocide that often stems out of language racism and its principal goal is to eradicate the language of a certain population group as part of its identity."*

and more effective in certain situations than direct orders and bans spelled out in legal regulations.

Tove Skutnabb-Kangas, a prominent Danish expert in the field of language rights introduced the term linguisticism to describe language genocide that often stems out of language racism and its principal goal is to eradicate the language of a certain population group as part of its identity. The symptoms of

the long practice of linguisticism on the part of government can be traced among members of national minorities in several central and eastern European countries including Slovakia.

A typical example of this phenomenon – or rather its effects – is posters, billboards and other signs that can be found in small villages around southern Slovakia. Most of them do not carry a single word in Hungarian as they are exclusively in Slovak, often with a lot of spelling errors because due to the said pressure, many ethnic Hungarians 'stutter' when using the state language, although they may speak it rather flawlessly otherwise. Subsequently, the 'stutter' gets imprinted onto their identity and destabilizes it.

The point is that no Slovak will probably ever wander into these backwater villages to see the posters. The main problem is not the pre-

sence of Slovak in public announcements but rather its exclusivity that borders on language fundamentalism.

## PERPLEXITY OF LANGUAGE POLICY

Many insiders have pointed out that the main reason for silencing part of national minorities' members' identity is the perplexity of legal rules that regulate the issue. One of the most bizarre laws in Slovakia's modern history, namely State Language Act of 1995, saw numerous changes in recent years. On the other hand, the Law on the Use of National Minorities' Languages of 1999 was long viewed a scrap of paper, as our story from a local authority demonstrated.

In 2010, several ethnic Hungarian institutions led by the Forum Institute for Minority Research based in Šamorín carried out an extensive survey that sent young activists to all municipalities in southern Slovakia where members of national minorities make up at least 10 percent of the local population to monitor the already cited provision of the Law on the Use of National Minorities' Languages, which stipulates that all important public signs, especially notices, warnings and medical notifications, must also be written in minority languages in all municipalities where members of national minorities make up at least 20 percent. The activists documented public signs in these municipalities in great detail, taking thousands of photographs. The survey concluded that the provision is completely ignored by government organs as well as legal persons. Even notices that warned people about potential life dangers were not bilingual! One could say that government's twisted language policy achieved its goal, as long as the goal was to eliminate all basic rules of mutual respect for other people's language and identity.

## SPACE FOR FREE CHOICE

Recent amendments to State Language Act created total language uncertainty on Slovakia's ethnically mixed territories. Particularly the amendment adopted in 2009 brought a truly unacceptable *status quo*, provoking harsh criticism at home as well as abroad and increasingly vocal demands to amend Minority Language Use Act in order to make national minorities' languages at least partially equal with the state language. The incumbent administration that took power in summer 2010 was aware of the need to amend Minority Language Use Act at the time of its inauguration and included it into its program manifesto. This was the beginning of a lengthy process that was completed on June 28, 2011, when the parliament repeatedly passed the amendment, breaking a veto by the president who refused to sign it on grounds of "discriminatory elements". The process of drafting and passing the amendment unearthed all possible stereotypes of Slovak politics and society with respect to national minorities, ensuing particularly from the majority's ignorance of their members' status and lack of empathy regarding their identity. As a result of these stereotypes, the amendment was interpreted primarily from the viewpoint of its effects on members of the majority while its importance for members of national minorities was often disparaged.

So, what is the essence of adopted change from the viewpoint of long-term development of minority rights in Slovakia? Until now, government's language policy was based on the idea that members of national minorities must realize that they live in a nation-state with a single language of integration that takes precedence in all areas of society's life and that they must learn the language and use it; at the same time, those members of national minorities who wish to use their mother tongue are free to do so but under strict conditions and within limits set by government. The problem was that government focused almost exclusively on enforcing the former part of this language doctrine while showing mostly indifference and passivity to the latter. Due to taking the line of least resistance, the languages of national minorities gradually began to disappear from everyday use. Members of national minorities themselves began to view their mother tongue as something second-class or inferior, a language they could use in their childhood days or within their four walls, whereas in everyday contact with official authorities they should use the state language to show they are adult people and responsible citizens.

Government's language policy was based on the premise that a (nation-) state knew best about the life of members of its national minorities and

was in a better position to make the necessary decisions. While trying to prevent members of national minorities from closing themselves into “language ghettos”, the state completely refused to even consider taking the path toward plurality, mutual coexistence of several languages and

*“Until now, government’s language policy was based on the idea that members of national minorities must realize that they live in a national state with a single language of integration that takes precedence in all areas of society’s life ... Due to taking the line of least resistance, the languages of national minorities gradually began to disappear from everyday use.”*

preserving the population’s unity without forcing its important segment to surrender its identity. The state refused to grant some of its citizens the freedom of choice in terms of freely formulating their expectations and demands. In other words, government’s language policy in the past was the policy of orders and bans, not the policy of free choice.

The amendment to Minority Language Use Act is a step toward respecting the values of liberal democracy in terms of

satisfying inhabitants’ cultural needs. It also has a strong social and humanitarian dimension as it provides assistance to those citizens who are unable – without fault on their part – to adapt to government’s requirements in the field of language use. Also, the amendment represents a return to the foundations of liberal democracy in the field of minority policy as it respects people’s freedom to determine their identity in the spirit of documents that stood at the cradle of modern liberal democracies, particularly the U.S. Declaration of Independence and the Declaration of the Rights of Man and of the Citizen but also the Charter of Fundamental Rights of the European Union whose first chapter primarily speaks of dignity as the principal value of European democracies.

## STEP FORWARD OR BACKWARD?

Initial reactions to adoption of the amendment illustrated vast differences between members of the majority and individual national minorities in terms of perceiving this issue. A decisive part of the majority viewed the amendment as unnecessary or as outright harmful. Some members of the Hungarian and Ruthenian minority considered the final outcome insufficient or even a step backward. True, certain changes suggested by some members of parliament significantly changed the law’s content but its character and basic idea has remained intact.

One should bear in mind that the incumbent administration’s program manifesto envisaged amending the unsatisfactory law of 1999 as opposed to adopting a new law. This fact determined the cabinet’s rather narrow

manoeuvring space in the process of drafting the legislation. The Office of Deputy Prime Minister for Human Rights, National Minorities and Gender Equality did its best to incorporate in the amendment as many realistic items as was humanly possible. Some of them were eliminated toward the end of the legislative process, for instance removing the obligation to equip television broadcasts in minority languages with Slovak subtitles. Furthermore, the amendment managed to enact some controversial provisions, including the one that allows authorities to set specific office hours during which they operate in minority languages. The spirit of the entire amendment, i.e. stability and enforceability of the right to use languages of national minorities in official contact as well as in various areas of life, including geographic names, was incorporated into the amendment’s final version. In passing the amendment, parliament created better conditions for the use of minority languages and gave government a chance to pursue a new, more positive policy with respect to national minorities.

Passing the amendment soon sparked a vivid public debate on the rights of national minorities’ members to use their mother tongue in public. In some towns in southern Slovakia, civil rights activists began to post up stickers on the doors of authorities and shops that carry single-language signboards, demanding consistent enforcement of bilingualism. In reaction to these demands, municipal councils in Šamorín, Dunajská Streda and Komárno passed resolutions calling on applicable institutions in their towns to respect bilingualism in public life.

Last but not least, the amendment to Minority Language Use Act created space for a broad public debate as well as a specific debate of linguistic experts on future development of Hungarian, Romani or Ruthenian languages in Slovakia. Government has now a unique chance to pursue a positive policy with respect to minority languages and actively participate in the process of incorporating previously secondary languages into public life. The Office of Deputy Prime Minister for Human Rights, National Minorities and Gender Equality is now facing a formidable task to ensure practical enforcement of the adopted law and thus verify its justification. It will be another test of liberal values’ viability in the region of Central Europe.

**The article was published in cooperation with Multikulti.sk, an Internet newsletter published by the Milan Šimečka Foundation; it is available at: [http://www.multikulti.sk/studie/navrat\\_vyhnaných\\_jazykov.html](http://www.multikulti.sk/studie/navrat_vyhnaných_jazykov.html)** ■

*“Government’s language policy in the past was the policy of orders and bans, not the policy of free choice. The amendment to Minority Language Use Act is a step toward respecting the values of liberal democracy in the field of satisfying inhabitants’ cultural needs.”*

# EVEN FUNERAL ACT SHOULD RESPECT DIVERSITY

TINA GAŽOVIČOVÁ

In May 2011, five MPs for Freedom and Solidarity (SaS) proposed an amendment to the Law No. 131/2010 on Funeral Services (hereinafter referred to as Burial Act).<sup>1</sup> One of the suggested provisions sought to abolish the currently valid time limit of 48 hours during which it is legally prohibited to bury mortal remains of the deceased. The justification report accompanying the proposed amendment reads: “In the case of the Jewish religious community, the said prohibition infringed on their constitution-guaranteed freedom of worship since their religious customs require burial within 24 hours of death.”

## EFFORTS TO AMEND BURIAL ACT HAVE BEEN FRUITLESS

When drafting the most recent amendment, the legislators revised fundamental comments that had not been incorporated into the currently

valid law passed in 2010.<sup>2</sup> Among them was an amendment proposed by the Central Union of Jewish Communities in the Slovak Republic. “In our opinion, the said bill is anti-constitutional and disturbs the traditionally good relations between our church and the state,” the official comment reads. “Article 3, Paragraph 3 of Burial Act stipulates that ‘mortal remains ... must be buried no later than 96 hours but no earlier than 48 hours after death’. This directly contradicts

*“The Central Union of Jewish Communities has been trying to enact an amendment to Burial Act or at least an exception for members of the Jewish religious community for more than a year.”*

<sup>1</sup> Related documents are available at: <http://www.rokovania.sk/Rokovanie.aspx/NezaradenyMaterialDetail?idMaterial=19669>

<sup>2</sup> The author would like to thank MP Martin Poliačik (SaS) and his assistant Katarína Mikulová for making available the memorandum that served as the background analysis for a SaS task force that discussed amending the Law No. 131/2010 on Funeral Services.

the Jewish religious code, Halakha, which requires that burial service be held within 24 hours of death. Since the Constitution of the Slovak Republic guarantees the freedom of worship that also includes religious acts and ceremonies (Article 24), we hereby consider Article 3, Paragraph 3 unconstitutional and propose its abolition, amendment or granting an exception from it.” The Central Union of Jewish Communities has been trying to enact an amendment to Burial Act or at least an exception for members of the Jewish religious community for more than a year; during that time, its representatives held talks with a number of high government officials including Parliament Chairman Richard Sulik (SaS).

## (UN)JUSTIFICATION OF CURRENTLY VALID TIME LIMIT FOR BURIAL

There were two basic arguments in favour of enacting the 48-hour time limit. According to the first, the time limit is supposed to prevent complications in case the deceased comes to life; however, having consulted experts from the Ministry of Health Care and the Bureau for Health Care

*“The time limit is supposed to prevent [complications in case] the deceased comes to life; however, there is no medical reason to stipulate the minimum time limit for burying mortal remains.”*

Supervision, the amendment proposers came to a conclusion that there was no medical reason to stipulate the minimum time limit for burying mortal remains. The second argument had to do with the possibility to order autopsy in case of “suspicion that death of the deceased

had been caused by a criminal act ... In such case, burying mortal remains requires consent by district attorney.”<sup>3</sup> The abolition of the 48-hour time limit would not have directly interfered with the Criminal Statute; however, such cases would require prompt action on the part of the police and timely communication with applicable authorities.

## SECULAR STATE SHOULD ALSO RESPECT CULTURAL DIVERSITY

In the first reading, the proposed amendment failed to muster the required support in parliament. A large number of present deputies abstained from voting, particularly MPs for Smer-SD and Slovak National Party (SNS). On the other hand, passing the amendment into the second reading was supported by all present deputies for Most-Híd and SaS and almost all members of the Slovak Democratic and Christian Union (SDKÚ-DS) caucus.<sup>4</sup>

The legislative assembly’s stance on the amendment seems to reflect the situation within Slovak society quite faithfully. Although the news about the amendment appeared in Slovak media, it failed to spark off any public debate. Perhaps understandably, the legislation that deals with burying mortal remains of the deceased is not a “hot” social issue. But this particular amendment concerns a much broader and much more important issue: Do minorities living in Slovakia have the right for their cultural specifics to be respected?

In his paper written in defence of liberal multiculturalism, Canadian philosopher Will Kymlicka observes that no state can be culturally neutral.<sup>5</sup> Culture (which in the broadest sense includes language, religion and customs) of the majority population or the population group that is in power in any given state is reflected in rules regulating various areas such as state language, work week, public holidays, dressing standards for people holding public posts and many others. Sometimes, culture may be found in areas where one would never expect it, for instance in the law on funeral services.

## LEGISLATIVE EXCEPTIONS AND PRINCIPLES OF ANTI-DISCRIMINATION

Democratic and civil system of government is based on the principle of equality of all citizens. At the same time, respect for liberal values compels us to demand that government refrains as much as possible from

3 Article 156 of the Law No. 301/2005 (Code of Criminal Procedures).  
4 Session No. 18 on May 19, 2011, vote No. 72 on Print No. 336; available at: <http://www.nrsr.sk/Default.aspx?sid=schodne/hlasovanie/hlasklub&ID=28484>  
5 Please compare to Kymlicka, Will, 2007: *Multicultural Odysseys: Navigating the New International Politics of Diversity*, Oxford University Press.

interfering with privacy of its citizens, including their religious or cultural life. But how can all citizens be equal when some of them are put at a disadvantage by the very fact that their culture differs from that of the “statehood majority”? Some of them may speak a different language at home while others may celebrate religious holidays on days that differ from officially acknowledged red-letter days.

Such situations are virtually impossible to avoid and it is quite difficult to eliminate them exactly because the state cannot be culturally neutral. What the state can do, though, is to minimize the rules that create barriers for different cultural groups. If it is impossible, it may introduce exceptions for culturally different population groups. In compliance with the theory of multiculturalism, the exceptions are recommended whenever a seemingly neutral standard creates specific complication and/or burden for members of a certain cultural or religious group.<sup>6</sup> That happens when a certain law stipulates an obligation that contradicts religious beliefs of a certain population group or directly prevents its members from practicing their beliefs or traditions. The purpose of an exception is to guarantee equality in access to certain professions and to allow minority members to preserve different cultural or religious habits. Naturally, like other types of minority rights, the exceptions must not lead to violation of fundamental human rights and must comply with the constitution.

Slovakia’s legal order is rather peculiar in this respect as it features one such specific exception; it is the right to conscientious objection that was quite paradoxically enacted to suit the religious majority. On the other hand, when initiators of the rejected amendment considered an exception for members of Jewish religious communities, they turned it down on grounds that it “contradicts the valid antidiscrimination legislation”. In other words, Antidiscrimination Act whose basic purpose is to protect minority members’ rights has been used in Slovakia to prevent a debate on whether certain population groups are eligible for a legal exception on grounds of cultural dissimilarity.

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## SAME TREATMENT IS NOT AN EQUAL TREATMENT

It is important to note the following: equality does not mean that all people should be treated in the same manner. Identical treatment of persons with or without handicaps apparently leads to inequality. For immobile students, a staircase to a school building may constitute an insurmountable barrier in access to education. The principle of equality requires government to take into account every individual’s different situation and strive to create conditions for everyone to lead a dignified life. If a time limit of 48 hours indirectly discriminates against a particular religious group and thus violates its members’ freedom of worship, government should seek ways to put the said religious group on an equal footing. That could be achieved either by shortening the currently valid time limit or by granting an exception from the general rule for members of the Jewish community.

The debate on the provision that stipulates the time limit for burying mortal remains of the deceased is not about respecting Jewish religious beliefs. Much more importantly, it is about Slovakia’s attitude to cultural diversity of its citizens and their right to live in compliance with their beliefs.

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6 Levy, Jacob T., 2000: *The Multiculturalism of Fear*, Oxford University Press, p. 128.



# I COUNT, YOU COUNT ... WILL IT COUNT?

JANA KADLEČÍKOVÁ

In the second half of May 2011, the country held a regular population census that once in ten years ascertains the number of inhabitants, houses and flats along with other interesting statistic information. This time the census was accompanied by organization chaos, many inhabitants' refusal to hand in census sheets and mutual finger-pointing of government agencies in order to pass the buck for the problems. If we disregard the mobilization campaign focusing on ethnic Hungarians living in Slovakia, the public debate that was supposed to educate people about the census's importance almost completely failed to accentuate the need to map out the Slovak population's ethnic make-up, despite the section of census sheets that inquires about citizens' ethnicity, mother tongue and frequently used languages is

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statistically most unique because it is relatively difficult to gather these data via administrative methods (e.g. retrieving already existing data from other public institutions).

## POSITIVE SHIFT IN ASCERTAINING ETHNIC IDENTITY

Compared to previous population censuses, the most recent

one made a praiseworthy attempt to extend the traditional category of ethnicity and inquire about inhabitants' native language as well as languages they usually speak in private and in public. The answers to these questions were expected to produce a more plastic picture about the population's ethnic make-up. This shift at least partially reflects recent findings by sociologists and ethnographers who argue that national and ethnic identity is not a rigid statistical category but may take various nuances and modifications in people's everyday lives. In other words, people may simply feel themselves part of several nations or ethnic groups, especially those with mixed ethnic background.

*"Based on the past practice with population censuses in Slovakia, one may rather assume that authors of census sheets and accompanying instructions silently assumed that everyone feels to be part of a single nation or ethnic group. It will therefore be interesting to see how the Statistical Office of the Slovak Republic deals with processing those census sheets that indicate several options."*

The instructions regarding the question on ethnicity were somewhat confusing as it failed to state explicitly whether people should indicate only one or several options. Based on the past practice with population censuses in Slovakia, one may rather assume that authors of census sheets and accompanying instructions silently assumed that everyone feels to be part of a single nation or ethnic group. It will therefore be interesting to see how the Statistical Office of the Slovak Republic deals with processing those census sheets that indicate several options.

## FOREIGNERS REMAIN OUT OF FOCUS

The population census should also inquire about foreigners living in Slovakia. The information campaign preceding the census was virtually free of any information for this population segment. Given the fact that over 60,000 foreigners had the status of permanent residents in Slovakia as of the end of 2010, we believe it would have been desirable to issue at least English language mutation of census sheets. Unfortunately, the census sheets were available only in Slovak and some minority languages, which is why statistical findings on foreigners will most likely be very unrepresentative. It is quite safe to assume that the most recent population census will produce rather scrappy and incomplete information about foreigners in Slovakia. ■

# SLOVAKIA STILL LAGS BEHIND IN INTEGRATION OF MIGRANTS

ALENA CHUDŽÍKOVÁ

The results of the Migrant Integration Policy Index (MIPEX) 2010 released in early March 2011 suggest that Slovakia continues to neglect its homework in the field of integration policy.

Carried out by the British Council and Migration Policy Group, an independent non-governmental European organisation, MIPEX is a comparative survey that monitors 148 indicators of integration policies pursued by European and North-American countries. The survey's latest edition known as MIPEX III put Slovakia 29<sup>th</sup> on the list of 31 countries, including all 27 EU member states plus Norway, Switzerland, United States and Canada.

Compared to the previous evaluation carried out in 2007, Slovakia not only failed to improve in several areas of integration but in the area of naturalization its score dropped by 12 points. The score in most other indicators remained virtually unchanged. At least it's not worse, one might say; however, such stagnation indicates that Slovakia keeps turning a blind eye to the issue of immigration and justifying its passivity in the field of their integration by low numbers of foreigners living on its territory (foreigners made up approximately 1.15% of the country's population in 2010).

Slovakia's approach to naturalization is one of the most restrictive of all EU member states. Recently, the critics focused especially on increasingly stricter conditions for acquiring citizenship and negative changes regarding the powers of authorities that decide on granting citizenship. In terms of conditions for acquiring citizenship, Slovakia's score decreased by 19 points compared to 2007, putting Slovakia in the company of countries where foreigners must keep their hopes for naturalization really low.

One of the most problematic is the method of ascertaining applicants' command of Slovak. The Citizenship Act is very vague in defining criteria of language proficiency as it does not provide any standards; evaluation of individual applications therefore depends entirely on the commission's subjective assessment. Those who apply for Slovak citizenship do not have a chance to prepare for the scope of knowledge required. But even more disturbing is the attitude of the Interior Ministry that is responsible for the entire citizenship agenda. According to the *Summary Report on the Fulfilment of Measures of the Strategy of Integration of Foreigners in the Slovak Republic*, the Ministry of Interior views the current practice of examining foreigners' language proficiency satisfactory and does not see any reason to change it.

The time limit that must pass before foreigners become eligible to apply for Slovak citizenship is also one of the longest in Europe. Those who wish to become Slovak citizens must permanently reside in the country for at least eight years before they can lodge their request. According to MIPEX III, the process of acquiring Slovak citizenship is one of the lengthiest and costliest in Europe. In recent years, the bodies that assess individual applications have acquired greater powers including discretion power, increasing their chances to act arbitrarily as well as foreign residents' insecurity.

The Interior Ministry explained the increasingly restrictive conditions for acquiring Slovak citizenship by the Police Force Presidium's requirements regarding "prevention of growing threats of organized crime and international terrorism."<sup>1</sup> Also, it justified the decision to extend the minimum period of permanent residence in Slovakia from five to eight years by the necessity "to more thoroughly examine applicant's familiarity with Slovakia's legal system and cultural environment."<sup>2</sup> Such reasoning indicates the political representation's preference of assimilation in the field of migrant integration and suggests that it continues to view immigration through the prism of security and protection of the state or public interest.

1 <http://www.sme.sk/c/3117555/ministerstvo-vnutra-navrhuje-novelu-zakona-o-statnom-obcianstve.html>, March 14, 2011.

2 <http://www.sme.sk/c/3113577/ziskat-slovenske-obcianstvo-bude-este-tazsie.html>, March 14, 2011.

On the other hand, Slovakia's score in the field of foreigners' education increased from zero in 2007 to 24 in 2010, which is attributed to amending Schooling Act in 2008 and including multicultural education to schools' curricula, mostly thanks to pressure from the third sector. Still, Slovakia trails most EU member states in terms of integrating foreigners' children into its education system; especially immigrants' access to education requires a lot of work.

Another area of noteworthy progress was antidiscrimination legislation where Slovakia improved from 47 in 2007 to 59 in 2010. The application of antidiscrimination principles in various areas was the category of greatest improvement for Slovakia in 2010. Compared to 2007, the areas of application now include social protection, social benefits and access to public goods and services such as housing. Law enforcement with respect to victims of discrimination has also marked some progress; however, antidiscrimination legislation is not immediately linked to migrants' integration although it affects it to a significant extent.

Minuscule changes in most evaluated categories indicate that Slovakia pays minimum attention to migrants' integration and seems happy with the status quo. No improvement was observed in several crucial fields such as access to labour market or political participation where the average score remains unacceptably low: Slovakia scored 21 points out of 100 in 2007 as well as in 2010.

While government officials claim they view integration as a process of mutual adjustment, we must conclude that immigrants are forced to walk several extra miles. Even today, many immigrants must rely on their own resources and social networks when looking for job or health care. Frankly, Slovakia's preferred model of integration resembles that of assimilation, which may be illustrated by the Interior Ministry's official standpoint regarding the minimum length of residence required for citizenship application. Sure, eight years of permanent residence should ensure immigrants' sufficient familiarization with host society, but what about host society's adjustment?

Slovakia's overall approach to foreigners' integration is far from adequate. Creating adequate conditions for immigrants' integration remains a task for the future. While the *Strategy of Foreigners' Integration in the Slovak Republic* called economic integration "essential" to the success of overall integration, an amendment to Alien Residence Act that is currently being drafted is likely to introduce even stricter conditions for foreigners' entry and residence. It will discourage many foreigners who would be interested in, say, setting up a business here, which would bring many benefits to the country – not only economic but also cultural or demographic. Unfortunately, it seems that government's security concerns still prevail over positive aspects of immigration. ■

## SUPPORTING MIGRANTS' MOTHER TONGUES

TINA GAŽOVIČOVÁ

For a couple of days in mid-April 2011, various media brought pictures of Vietnamese children sitting behind desks in one primary school's class in Slovakia. The stories they accompanied informed that the school will teach Vietnamese language. It is the first and only project of its kind in Slovakia for the time being.

*"In Slovakia, the issue of educating foreigners' children is publicly almost invisible."*

The event that caught journalists' attention last spring was the signing of a cooperation agreement between representatives of Bratislava's Nové Mesto district and the town's Vietnamese community. Starting with the new academic year (i.e. September 2011), the primary school at Odborárska ulica should according to the agreement teach Vietnamese language and Vietnamese history, culture and traditions as an optional subject during afternoon classes. The Nové Mesto district agreed to provide the classrooms and promote the classes among the school's pupils. The Vietnamese community shall provide teachers, teaching aids and additional financial aid necessary to secure the educational process.<sup>1</sup> While the classes should be open to all pupils, Vietnamese children shall be the primary target group.

*"In total, primary schools in Slovakia are attended by approximately 900 children with foreign nationality. We don't know how many other pupils are of migrant descent."*

In total, primary schools in Slovakia are attended by approximately 900 children with foreign nationality. We don't know how many other pupils are of migrant descent because official statistics do not ascertain this type of data. One third of all foreign nationality pupils attend schools in the Bratislava region; the rest of them are more or less evenly spread across the country as only five out of 79 districts in Slovakia do not register a single foreign nationality pupil at their primary schools.

primary target group.

### CHALLENGES FACING EDUCATION OF FOREIGNERS' CHILDREN

The increasing number of children with foreign nationality or of foreign origin attending primary schools in Slovakia presents new challenges

1 "Na bratislavskom Novom Meste sa bude vyučovať vietnamčina" ['A School in Bratislava's Nové Mesto to Teach Vietnamese'], a press release from April 13, 2011.

for their education. The principal problem in most cases is the language barrier. The children and their parents rarely have any command of Slovak and often there is no other language they can use to establish communication with the local school's teaching staff and management. Other problems facing the teachers include placing children into particular grades and their subsequent evaluation. The children of migrants who arrived in Slovakia at school age most probably attended schools in their country of origin. Unfortunately, it is virtually impossible to establish the contents of their previous curricula and their proficiency in particular subjects without a common language of communication. Slovakia's education system places great emphasis on formal education outputs, i.e. the prescribed curriculum that is tested through written or oral examination. The teachers that are supposed to teach children without sufficient command of the instruction language often find themselves at their wits' end.

There are other problems besides the language barrier or difficulties with formal placement and evaluation. The children may experience a culture shock caused by different habits, school system, board, climate and other factors. Also, they often encounter xenophobia on the part of their classmates or schoolmates and become the target of bullying, especially if they are easily distinguishable from the majority population.

*"The principal problem in most cases is the language barrier ... Slovakia's education system places great emphasis on formal education outputs ... The teachers that are supposed to teach children without sufficient command of the instruction language often find themselves at their wits' end."*

### LANGUAGE POLICIES IN EDUCATION OF FOREIGNERS' CHILDREN

In Slovakia, education of foreigners' children was legislatively regulated thanks to the European Union. One of many directives Slovakia had to transpose into its legal system before it became a full-fledged EU member was the Council Directive on the Education of the Children of Migrant Workers.<sup>2</sup> The directive stipulates that children of migrant workers "should

2 Council Directive 77/486/EEC of 25 July 1977 on the Education of the Children of Migrant Workers.

be able to receive suitable tuition including teaching of the language of the host State” and that individual member states should “take appropriate measures to promote, in coordination with normal education, teaching of the mother tongue and culture of the country of origin”.

Slovakia transposed the directive by amending School Act in 2002 and the currently valid legislation reiterated the issue’s regulation.<sup>3</sup> Out of the two cited measures – teaching of the language of the host state (i.e. Slovak) and teaching of the mother tongue – Slovakia practically provides only the former, and even that on a rather formal basis. The law stipulates that regional schooling authorities should organize Slovak language courses for foreigners’ children.<sup>4</sup> In practice, though, individual schools are forced to improvise in tackling foreigners’ children’s insufficient command of Slovak, often using private tuitions or extra assistance by the teaching staff for no extra payment.<sup>5</sup>

The requirement that foreigners’ children should be able to develop their command of mother tongues in Slovak schools was never incor-

3 Amendment to the Law No. 29/1984 on the System of Primary Schools and Secondary Schools (School Act) as well as the currently valid Law No. 245/2008 on Education (School Act).

4 Article 146 Paragraph 3 of the Law No. 245/2008 on Education (School Act) merely stipulates that the courses “are ... organized”. For regional schooling authorities, this obligation is stipulated by Article 10 Paragraph 17 of the Law No. 596/2003 on State Administration in Education System and School Self-Rule, as amended.

5 For further details on practicalities of the courses, please see Gažovičová (ed.): *Vzdelávanie detí cudzincov na Slovensku. Potreby a riešenia* [Education of Foreigners’ Children in Slovakia: Needs and Solutions], Bratislava: CVEK/NMŠ, 2011.

porated into the school legislation. It appeared in a single policy document elaborated by the Ministry of Education, which binds the State Pedagogical Institute and schools attended by foreigners’ children to pursue activities aimed at supporting the children’s mother tongue and original culture<sup>6</sup>; this has never been implemented in practice.

The communities of new minorities that are emerging in Slovakia as the result

of international migration have the right for their children to be educated in schools where the language of instruction is other than the state language, provided of course that tuition at such schools must be taxed.<sup>7</sup> So far, no such school has been established in Slovakia. The mentioned project in Bratislava serves a case in point that grass-root initiatives addressing local needs may be successful without any policy imposed from above. ■

6 *National Plan of Education to Human Rights for the Period of 2005 – 2014*, Ministry of Education, 2005.

7 Article 146 Paragraph 7 of the Law No. 245/2008 on Education (School Act).

*“In Slovakia, education of foreigners’ children was legislatively regulated thanks to the European Union ... Slovakia transposed the directive by amending School Act in 2002 ... Out of the two cited measures – teaching of the language of the host state (i.e. Slovak) and teaching of the mother tongue – Slovakia practically provides only the former, and even that on a rather formal basis.”*

## COMMITTEE FOR NATIONAL MINORITIES AIMS TO IMPROVE MINORITIES’ ACCESS TO DECISION-MAKING ON THEIR COMMUNITIES

JARMILA LAJČÁKOVÁ

Municipal elections along with parliamentary elections have until recently been virtually the only and the most important way for minority representatives to participate in decision-making on issues that concern their communities. In this respect, traditionally most successful has been the Hungarian minority; smaller and less politically consolidated minorities have not yet succeeded on the national level, largely due to the 5-percent quorum of the popular vote that is required to clinch parliamentary seats.

The right of national minorities’ members to participate in decision-making on matters that concern their own communities is one of the most important constitutional and international minority rights and leaving it up to standard democratic processes does not guarantee its satisfactory implementation. The scope of implemented individual minority rights thus remains conditioned by the majority’s good will and the minority’s ability to succeed in election campaigning and claim political posts from which its representatives may influence and shape minority policy. One also should not forget that the majority may have different notions of what is ‘good for the minority’. For instance, the new government’s decision to fill the post of government plenipotentiary for Romani communities by a member of majority is in glaring contradiction with fundamental principles of minority rights that dictate it is desirable to encourage minorities to decide on their community affairs.

### IMPLEMENTATION OF MINORITY MEMBERS’ PARTICIPATIVE RIGHTS

The second quarter of 2011 marked one significant development in the field of improving participation of minority members in decision-

making on affairs that concern their own communities as Deputy Prime Minister for Human Rights, National Minorities and Gender Equality Rudolf Chmel initiated a key process of transforming the Government Council for National Minorities, which is the only participative organ representing national minorities. His ambition is to change the existing organ that has a primarily advisory role into a body that would be more effective and representative from the viewpoint of national minorities living in Slovakia.<sup>1</sup> In order to achieve that, he created a new advisory body called Slovak Government’s Council for Human Rights, National Minorities and Gender Equality that constituted several committees including the Committee for National Minorities and Ethnic Groups, which will be his *permanent body of experts for issues concerning national minorities and ethnic groups*.

The Committee for National Minorities and Ethnic Groups should not be merely a body of experts but primarily advisory and to some extent political organ. It is the only government institution to guarantee that seats reserved for representatives of minorities will be truly held by them and that they will not be filled by the majority in line with its often distorted ideas of who should represent particular minorities.

### ELECTION OF COMMITTEE MEMBERS

Given the non-existence of minority self-rule (which also includes democratic election of minority representatives and leaders) it is inte-

1 Please see the Statutes of the Slovak Government’s Council for Human Rights, National Minorities and Gender Equality adopted by Government Resolution No.158/2011 of March 2, 2011, and changes introduced by Government Resolution No. 346/2011 of June 1, 2011.

resting how creators of the new institution dealt with election of committees' minority members so that they represent individual minorities as truthfully as possible.

Those committee members who are supposed to represent minorities shall be elected by so-called electoral assemblies that comprise "organizations that demonstrably operate in the field of supporting, preserving and developing culture and cultural identity of members of national minorities".<sup>2</sup> These organizations shall nominate their candidates through electoral assemblies that differ for each national minority. Each registered minority organization is allowed to nominate as many candidates as the number of committee seats earmarked for each particular national minority. Each organization shall nominate its candidates along with their substitutes and simultaneously delegate electors who are entitled to elect representatives at the electoral assembly. All candidates must be Slovak citizens with impeccable criminal records.<sup>3</sup> The secretariat of the committee shall issue registration calls at least ten working days before the electoral assembly. Voting is by secret ballot.<sup>4</sup> This election model guarantees a very high probability that elected to the committee will be those who feel affiliated to particular national minorities and ethnic groups and are perceived as such by other members of the minority in question. The first elections according to the new key were held in May 2011.

Besides elected representatives of national minorities, the committee comprises government officials. The post of committee chairman is held by the deputy prime minister for human rights, national minorities and gender equality; the post of secretary is held by an employee of the Section of National Minorities at the Slovak Government's Office; finally, the post of vice-chairman is held by an elected member that is appointed by the chairman acting on a proposal by other committee members. The committee also includes state administration officials such as the general director of the Section of National Minorities and general directors of applicable sections at interior, education, culture, social affairs and justice ministries. The committee may summon to its sessions various experts who specialize in issues concerning national minorities and their rights. The right to vote rests only with elected committee members who represent minorities and the committee chairman. The number of committee members representing each of the 13 duly acknowledged national minorities is set according to their total number established by the most recent population census.<sup>5</sup>

## POWERS OF THE COMMITTEE

The committee is vested primarily with the power to pursue activities aimed at enhancing protection of minority rights and participates in elaboration of reports for international monitoring organs that focus

2 Ibid

3 The original design was that all candidates must be Slovak residents. Limiting candidates' eligibility to Slovak citizens indicates that the Committee does not have an ambition to evolve into a participative organ representing newly-emerged communities of immigrants in the future.

4 Standing order of electoral assemblies of the Committee for National Minorities and Ethnic Groups at the Slovak Government's Council for Human Rights, National Minorities and Gender Equality that was issued by the chairman of the Committee for National Minorities and Ethnic Groups on April 27, 2011.

5 The committee comprises five representatives of the Hungarian minority, four representatives of the Romani minority, two representatives of the Czech minority, two representatives of the Ruthenian minority, two representatives of the Ukrainian minority, one representative of the German minority, one representative of the Polish minority, one representative of the Moravian minority, one representative for the Russian minority, one representative for the Bulgarian minority, one representative for the Croatian minority, one representative for the Jewish minority, one representative for the Serbian minority (the number of committee members representing the Roma was increased by one after a suggestion by the government plenipotentiary for Romani communities who objected that population censuses did not correctly establish the actual size of the Romani minority) (Statutes of the Committee for National Minorities and Ethnic Groups adopted by Resolution No. 3 of the Slovak Government's Council for Human Rights, National Minorities and Gender Equality of April 12, 2011).

on minority protection, particularly the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. Last but not least, it cooperates with public administration organs, academic institutions and scientific establishments. The committee shall issue annual reports to evaluate government's support of national minorities' culture and to monitor the use of minority languages and submit them for approval to the Slovak Government's Council for Human Rights, National Minorities and Gender Equality.

The committee adopted a principle that committee sessions shall not discuss issues concerning a particular national minority unless members or substitutes representing the minority in question are present. When voting on minority affairs, the votes of committee members representing the minority in question shall be decisive.

The described model of implementing minority rights differs from autonomous self-rule that treats national minorities as collective legal subjects. Within the framework of existing individual minority rights, the model strives to maximize legitimacy of minorities' elected representatives from the viewpoint of their representativeness. The committee lacks any fundamental powers that would for instance allow it to veto the cabinet's legislative initiatives or policy documents that threaten to have an adverse effect on national minorities or minority rights standards. Though it is rather imperfect, the model allows members of national minorities to exercise their participative right through associations, interest and non-profit organizations.<sup>6</sup> It is completely up to committee members to use their potential and contribute to improving government's minority policy, if only with respect to already acknowledged national minorities as opposed to newly-created communities of immigrants. ■

6 Please see committees that decide on financing culture.

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