

Chapter 10

The Status Law in the Hungarian-Slovakian Context

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People of sound mind usually welcome kin minorities living abroad. At home one helps them willingly when necessary and in turn one may count on their hospitality abroad. We expect a similar attitude from government and officialdom. At this point, however, relations with kin minorities living beyond the borders of a given state come up against formal obstacles. Under the totalitarian regime these difficulties were almost insurmountable. Relations with any kind of ‘foreigner’ – even with foreigners of one’s own national identity – were closely watched and regulated. After the democratisation of the post-communist countries things became simpler, better and more open in this respect as in others. But kin minorities abroad remain the citizens of another state, and if we want to speak about giving them ‘external’ support, the following questions need clarification: (1) What should be supported? (2) How and (3) by whom should they be supported?

To the first question there is a clear and probably unanimously acceptable answer: Support may be directed towards promoting their national consciousness, insofar as this is of interest to them. This involves measures related to their command of the mother tongue and to their ties with the kin-state and its national culture.

There is no doubt about the answer to the second question, either: Their relations with the mother nation in the kin-state must be fostered to the greatest extent possible, along with their access to the components of their national culture (including the mother tongue) in the home-state. All this is of course not free of charge. But while we are providing financial support for children, young people and pensioners at home, why couldn’t something similar be granted to our kin minorities abroad? The state provides assistance to a number of foreign target groups – why couldn’t one of these groups be the community of our kin minorities living abroad?

It is only the third question that demands some thought: Who is to support them? Several countries, including Hungary and Slovakia, have decided that it should be the task of the state. They have each introduced laws on kin minorities. However, the fundamental principle of this kind of legislation is by no means unproblematic.

First of all, all such laws are extraterritorial by nature, since they affect a group of citizens of another state. From the point of view of the United States, it is all the same whether a Slovak law concerns the American Slovaks or the American Indians, for both groups are American citizens. And it is also irrelevant whether these American Slovaks (or perhaps Indians?) are supported in Slovakia or the in U.S., as they remain American citizens in Slovakia, too. Consequently, in the case of the American Slovaks any Slovak status law must be compatible with the terms of their American citizenship. Should any doubt arise concerning this compatibility, i.e. should the adoption of the law impinge on the interests of the American state, the consent of the American government is indispensable. This ultimately means that the final form of the act has to be the result of a bilateral agreement.

Furthermore, all such laws are necessarily discriminatory, though not from the point of view of the target country. The American Indians need not feel themselves disadvantaged because the American Slovaks are recipients of a gift from the Slovak government. Certain citizens of the Slovak Republic, however, may feel that it is discriminatory. All of them are taxpayers, after all. For the Slovaks, it probably doesn't matter that citizens of another state are being supported from their taxes, provided these are their kin minorities. But Slovakia's ethnic Hungarian taxpayers might ask with reason: Why is their tax money spent on supporting the Slovaks' kin minorities, when it might just as well be allocated to the Hungarians' kin minorities abroad?

Thus, from the point of view of public law both the Slovak and the Hungarian status laws are questionable. What is more, there would be no need for them, if kin minorities were supported on both sides by non-governmental organisations instead of the state and if they were not addressed by dubious laws on the citizens of other countries, but were dealt with on a charitable basis. This would obviate the arguments of extraterritoriality and discrimination, as these can be applied only in the case of the state and its laws. Unlike a state formed by citizens and so based on civic principles, a non-governmental organisation can function on a national principle that can ignore borders and taxpayers' claims to equitable treatment.

If kin minorities are regarded as parts of the nation, all services rendered to them have to be provided by an association-like national institution, like our *Matica slovenská*.^{*} It would not use public tax-money, but would secure non-governmental sources of its own, for instance from collections, donations and other payments. It is high time, by the way, that this organisation looked to the situation of foreign Slovaks and that it helped them effectively.

* *Matica slovenská* is the old Slovak national-cultural organization, which was founded in 1863. After 1989 the political leaders of *Matica slovenská* pursued a very active nationalist line, perhaps directed against the Hungarian Minority in Slovakia.

This is just speculation about how we could have avoided the problem of extraterritoriality and discrimination. The situation at present, however, is that our countries have taken or are about to take their respective kin minorities under their protection, so we have to face these problems. The question ultimately is whether the difficulties arising from all this are as serious as they sometimes appear. In other words, we need to ask whether this is really about an intolerable interference with the sovereignty of a foreign country or whether it is only about difficulties of interpretation and practical implementation, which could be resolved with the agreement of the parties involved. Let us examine the Hungarian Status Law, which is currently the subject of many disputes.

Firstly, the dispute is not one between hostile countries, but a disagreement between good neighbours who cooperate intensively within the frame of the Visegrád Countries, the Council of Europe, the OSCE and the like. The bilateral 'Treaty on Good Neighbourly Relations and Friendly Co-operation' confirms this relationship formally. If a problem crops up between countries on such friendly terms, it is not appropriate or acceptable for either party to deliver an ultimatum or express opinions that are *a priori* irrevocable and are aired by the media. The solution lies in discreet diplomatic language and the search for consensus. Unfortunately, in our case both parties neglected this principle. On the one hand, the Hungarians didn't initiate preliminary negotiations with Slovakia on the Status Law while it was being drafted, and on the other hand the Slovak Prime Minister Mikuláš Dzurinda, with his intransigent ultimatum-like declaration in Budapest, precluded any possibility for subsequent negotiations on possible amendments to the law. Such behaviour is incompatible with friendship; it is more characteristic of enemies. But it is still possible to resort to negotiations aiming at consensus, whose ultimate outcome would not be a settlement of conquerors and conquered but an agreement acceptable to both parties.

Secondly, there are several kinds of extraterritorial intervention. Some of them palpably infringe the sovereignty of another state, while others – with some good will – might be regarded as insignificant trivialities. How then does the Hungarian Status Law relate to Slovakia's sovereign rights?

The fight for the independence or sovereignty of a state means the struggle for one's own state. If the state already exists, one fights to maintain independence only if something threatens or inhibits the exercise of the right of self-determination within one's own territory. The power and authority to make final decisions about the internal life of a country is the touchstone of independence.

Since 1 January 1993, we exist as the independent Slovak Republic, a sovereign member state of the United Nations, the Council of Europe, the OSCE and the OECD, and we are applicants for NATO and EU membership.

Our sovereignty seems to be secure and justified as never before. Last year, however, the guardians of independence sounded the alarm and since then they have been wailing hysterically about Slovak sovereignty being threatened from all directions, the threat being, among others, Hungary and the Hungarian national minority in Slovakia.

Hungary is said to be dangerous because it has passed the ‘Act on Hungarians Living in Neighbouring Countries’, which affects Slovak citizens as well – just as Hungarian citizens of Slovak ethnic origin fall within the scope of our law on Slovaks abroad. Members of both communities receive the relevant identification documents. The Hungarian Certificates are valid only in Hungary; in Slovakia their holders are not entitled to any benefits and grants. We seem neither to have infringed nor to have endangered each other’s sovereignty.

From this point of view the only question is whether the rights and benefits granted by the certificates don’t exceed the purpose of support given to kin minorities, namely the goal of promoting their national identity, which involves fostering links with the mother nation, the national culture and the mother tongue. This goal is, however, so wide and comprehensive that almost anything might be included in it. The other party may implement restrictions only if the rights and benefits granted by the certificates are in conflict with the legal status of citizenship in the Slovak Republic or with the national interests of Slovakia.

The answer to this latter question depends on how we interpret citizenship and the interests of the Slovak state in relation to those Slovak citizens who constitute the Hungarian minority. The Slovak idea of the nation-state is fundamentally assimilationist. In this perspective, a person belonging to the Hungarian minority is a Slovak citizen of Hungarian origin, with the emphasis on *Slovak* citizen. Everything that would lead him/her astray from this definition has to be curtailed, trimmed and eliminated. Emphasising one’s national identity is suspicious, something very different from the ultimate goal of assimilation. Ties with the kin-state, its national culture and the mother tongue are not welcome; therefore they have to be weakened by as many administrative and bureaucratic obstacles as possible. Thus, it becomes clear why the rights and privileges arising from the Hungarian Certificates issued to *Slovak citizens of Hungarian origin* have to be eroded as far as possible.

According to another – integrative – interpretation, however, Slovakia might be seen as a civil state, each of whose citizens is state-forming to the same extent, with citizenship of full value and regardless of ethnic origin. In this concept of state every national identity has the same right to maintain, strengthen and develop itself, and every component is a part of the common *multiculture* of civil society. The Slovak Republic is made up of each and

every one of its citizens. From such an integrative viewpoint a member of the Hungarian minority is thus to be regarded as a member of the Hungarian nation who lives abroad, a Hungarian who permanently lives in Slovakia and who is a Slovak citizen – that is (s)he is Hungarian by ethnic origin holding Slovak citizenship. As the Slovaks put it familiarly: our Hungarian fellow-citizens. Such a citizen is guaranteed the right to confirm his/her ties with the mother nation and its national culture; (s)he has the right to cultivate his/her national identity and mother tongue. Citizenship should not be an obstacle to exercising this right; quite the contrary, it should facilitate it to the greatest extent possible. It follows that from this point of view the rights and benefits granted by the Hungarian Certificates should be seen as an enrichment of Slovakia's multicultural civil society.

The dilemma of the consciousness of dual identity – the sense of holding a citizenship different from one's national identity – can be elegantly resolved with the help of dual citizenship. Recently our Czech fellow-citizens living in Slovakia have obtained it from the Czech Republic. They have extended their homeland to both countries, i.e. to the former Czechoslovakia. They are just as at home in Prague as in Bratislava and they are registered both as Czech citizens living abroad and as members of the Czech minority holding Slovak citizenship. To acquire this privileged status there has been no need for the Czech Republic to pass any act on kin minorities of the kind that would affect citizens of other states.

I am wondering why this example has not inspired our Hungarians. They could have listed historic and material arguments similar to those of our Czechs. Their common state was similarly divided and through no fault of their own they found themselves on the other side of the border twice. The familiar cultural and material ties that had been woven in their original homeland for centuries were torn. If the Czechs could make these arguments on the basis of a seventy-year-long past, the Hungarians could present a past of more than a thousand years.

For the purposes of Slovak sovereignty, it doesn't matter whether the Hungarians living abroad receive any support from the Hungarian state, and it is equally off the point whether they make use of the financial subvention outside Hungarian territory, for instance in Slovakia. By the way, the 20,000 HUF per head intended for Hungarian students is approximately 3400 Sk (Slovak crowns), which is one third of the average monthly wage or the sum of unemployment aid for a month. This may provoke envy, but it does not infringe the sovereignty of the Slovak state on Slovak territory. If it did, it would mean that our independence had pretty uncertain foundations and would be threatened from numerous directions every day.

To mention but one example, the German minority living in Slovakia has for a long time been supported by the German government in an incomparably

more generous manner. It subsidises schools from Bratislava to Medzev – amongst others the bilingual grammar school in Poprad – and it sends German instructors and textbooks to these schools. The children belonging to the German minority receive scholarships if they learn German in Slovak schools or if they choose to pursue their studies in the language of their kin-state. In the areas most densely populated by the minority, the German government has purchased two cultural centres and some old folks' homes; it finances their construction and maintenance, just as it subsidises a whole range of cultural activities, the media and the reconstruction of monuments. On seeing all this nobody started trembling for Slovak independence.

The advantages of the dual citizenship of our Czech fellow-citizens are not solely of an abstract kind. Malevolent people may, for example, envy their double passports. Whereas, let's say, for a journey to Great Britain they would need a British visa (to the best of my knowledge approximately 2800 Slovak crowns) to accompany the Slovak passport, the Czech passport allows them to avoid this expenditure. Furthermore, on the way from Slovakia to the Czech Republic and back they are entitled to ask for VAT return on their purchases. Let's not begrudge them this advantage. Our sovereignty is not being curtailed, and it is wrong to perceive it as discrimination against non-Czech people in Slovakia.

At the level of the state the concept of discrimination does not make any sense except with regard to the citizens of one and the same state. If the Czech government bestows any privileges on Czechs holding Slovak citizenship, this does not imply a disadvantage to other citizens of Slovakia. It may be a case of discrimination against the citizens of the Czech Republic, but that is no longer our concern. The same holds true for the support provided by the Federal Republic of Germany and the Republic of Hungary for Germans and Hungarians holding Slovak citizenship.

Taking all the above-mentioned factors into account, it is nonsense to charge Hungary with discriminating against non-Hungarians in Slovakia, and to claim that our Hungarians in Slovakia endanger the sovereignty of our country if they accept the Hungarian Certificates or foreign Hungarian support for their children to pursue their studies in the Hungarian language. Preparing for all emergencies, the Christian Democrat Movement (KDH) drafted a bill to protect our sovereignty, which – among other absurdities – proposed a 90 percent tax on Hungarian currency. Up to now they have not bothered with a tax on the German or Czech currency or with other restrictions relating to our Germans and Czechs.

The 'Act on Hungarians Living in Neighbouring Countries' is not the best method the Hungarian nation in Hungary might have devised to assist their kin minorities effectively. The Orbán cabinet launched a propagandistic policy, which the incumbent government has inherited. Friendly

neighbours could have *bona fide* helped to manage this legacy in the most acceptable manner. Instead, the watchful, suspicious and quarrelsome neighbours seized the opportunity to make the treatment of this unasked-for legacy even more difficult. I am truly sorry that the Slovak government has chosen this second alternative.

It is, however, not yet too late to think it over and find a mutually acceptable solution to this unnecessarily exaggerated problem.

(Translated by Ivett Császár)