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The Law vs. the Slovak Language: The Case of the Forgotten Victim

When in August 1996 the US House of Representatives passed a bill designating English as the official language of the United States, the then House Speaker Newt Gingrich warned that the consequences of its absence could lead to the "decay of the core parts of our civilization." He might have worried even more if he knew that the vote was only a beginning of a long legislative hassle, which has – so far – given the United States the Declaration of Official Language Act in January 1999 and a proposition to amend the Constitution two months later. On the other hand, an opponent of the Law, representative Esteban Torres from California, called it a misguided effort to legislate the very obvious. Indeed, legislating "what is" appears to be quite a different task from other kind of legislation. It proved difficult to find wording that would subsume the existing reality, both without loopholes that would allow the decay of our civilization to sneak in, and without – so to say – 'legislating out' some of the things the proponents thought *do* stand for our civilization. For example, among the multitude of things the Congressmen realized while trying to draft the Law was that a special clause was required to prevent a need to issue new currency after the law is passed: otherwise all the dollar bills and coins, as well as the presidential seal would become illegal because of the phrase *E pluribus unum*.

Slovakia found itself in a similar kind of discussion, and its Parliament passed its Law on the State Language on 15 Nov. 1995.¹ Its proponents argued that such a law was necessary to maintain Slovak heritage and guarantee that all government offices communicate in Slovak. On the other hand, its opponents criticized it as an incursion on the use of Hungarian by some local authorities, which was common, although not mandated. Slovakia has about a 10% Hungarian minority most of whom reside in two compact areas where they are in the majority. A corresponding number of Slovak grade and high schools teach all the subjects in Hungarian and teach Slovak only as a foreign

¹ Act no. 270/1995 Coll. on the State Language of the Slovak Republic.
<http://www.pitt.edu/~votruba/sstopics/lawsonlanguageinslovakia.html>

language in 2 or 3 classes a week² (most of those localities also have schools that teach everything in Slovak).

Only the Slovak–Hungarian implication of the Law on Language caught attention at the time, among the activists, politicians, journalists, as well as scholars. It was criticized for this reason by the Slovak opposition; by the government of Hungary whose president József Antal said around that time that he considered himself the president of all the Hungarians, no matter in what country they may live; and by the Hungarian minority activists in Slovakia. The implications of the Law for minority language use have been discussed on a number of occasions and I will not add to that here. The opposition won the elections in 1998, Hungarian minority politicians became government ministers, some aspects of the Law affecting Hungarian were amended and ceased to be as politically charged an issue as they were under the previous government of Vladimír Mečiar.

Other aspects of the Law on Language, however, went unnoticed and remain in place, although suspended in an unusual legal limbo. Its authors presented these aspects as the essence of the Law which – to paraphrase what the two Congressmen said about the American law – aimed to preserve the country’s civilization by legislating the very obvious. These paragraphs of the Law are indicative, on the one hand, of the overall difficulty with legislating “what is,” and on the other hand of wider cultural issues including the perceptions of legality in a post-Communist country and the significance ascribed to “correctness,” that is to say to a prescriptive *standard* language, rather than simply to *native* or *national* language – not just in Slovakia, but in other Central European cultures and elsewhere. For example, among this year’s developments were the Russian Duma’s concern with its country’s language in January and the Polish law on language, which took effect in May.

One error that analysts occasionally made when discussing Slovakia’s Law on Language was the assumption that it was an effort to establish Slovak as a replacement for Czech after the demise of Czechoslovakia in 1993 and that it was a reflection of a degree of anti-Czech sentiment and therefore directed against both Hungarian *and* Czech. But there was no more need to establish Slovak in Slovakia than there was a need to establish Czech in the newly emerged Czech Republic. The former Czechoslovak Federation, similar to Belgium or Switzerland, did not have a single official language. Both Slovak and Czech enjoyed that status, and for all practical purposes, the whole administration and education was carried out in Slovak in Slovakia and in Czech in the Czech part of the Federation. The media, and everything else in the country was divided linguistically in the same manner along the state line and there was no inter-teaching of the two languages. At the same time, the Federal radio and TV stations beamed all over the Federa-

² Martin Votruba, “Linguistic Minorities in Slovakia.” In: From: C. Bratt Paulston, ed. *Linguistic Minorities in Central and Eastern Europe*. <http://www.pitt.edu/~votruba/ssttopics/ssttopics.html>

tion rotated Slovak and Czech programming almost by the hour – strictly by the hour in the hourly newscasts on the radio. As a result – with the two Slavic languages being so close – the Slovaks and Czechs grew up with a, so to say, “fluent” passive knowledge of the other language without actually being able to speak it, unless they moved to the other part of the 2-state Federation, where they would usually learn the local language. That is also how the Federal Government operated, while the two state Governments were mono-lingual each in its local language. In other words, Slovak and Czech had been firmly in place in each of the two federal states for decades and *both* operated as the country’s *two* official languages at the Federal level. Therefore, when Slovakia and the Czech Republic separated, each of them simply continued using its own language as it has done all along. That is to say, neither Slovak, nor Czech needed to be “elevated” to the status of official languages. That’s what they have been all along.

I have found no evidence that things might have been different behind the scenes when the Law on Language was being drafted. I interviewed officials at the Ministry of Culture, which drafted the Law, both before and after it was passed by Parliament, linguists from the Slovak Language Institute who were involved in the drafting of the Law, and the staff at the Ministry’s new office established to watch over the enforcement of the Law and language maintenance. I also attended a quarterly session of the language Commission created by the Government as a steering body in its linguistic efforts. Whenever I probed into what role the Law on Language might play in reducing the use of Czech programs and films on TV or in the movie theaters, I actually discovered concern that this not be so. Clearly, this was one of the issues where the authors faced the problem of legislating “what is” – keeping the overall acceptability of Czech, but not another foreign language, without actually singling one language out. When I suggested on several occasions that Czech programs might be dubbed or subtitled, they responded with statements along the lines of “that would be absurd, extreme, ridiculous.” I believe they represented the true stance of at least the majority of those who drafted the Law and secured its passage for two reasons.

One, it reflects the overall attitude of the Slovak population to other ethnic groups as indicated by opinion polls. For example, an opinion poll from around the time when the Law was discussed showed that the Slovaks’ favorite other ethnic group was the Czechs by a wide margin – as many as 82% of the respondents in Slovakia said they liked the Czechs, 15% were non-committal and only 3% didn’t like them. That’s well ahead of any other group, including, perhaps ironically, the second best-liked group, the so-called “foreign Slovaks” which includes the Slovak-Americans, liked by 70% in Slovakia and disliked by 5%.

[After them were the Germans and the Poles, both with a positive rating of 56% and negative -6% and -7% respectively, the Hungarian minority came close at +53%, but the

attitudes were much more strongly polarized with -20%; which was much better, for example, than the Russians and Ukrainians with +37% and -24%.]

The other reason why I believed that the officials were telling the truth when queried about the Law on Language *vis-à-vis* Czech is indirect, but quite convincing in my eyes. I always received ambiguous answers when I asked similar things about the use of the Hungarian language and sometimes was told more openly that indeed, there was a need to have legislation clearly establishing Slovak as the official language of the country because of the situation in the Hungarian minority areas – where, the argument would go, a Slovak speaker might not have legal grounds to get the local authorities to communicate with him or her in Slovak. I'm not discussing the mutual Slovak–Hungarian grievances here, but the clear difference I encountered with regard to the Law and the use of Czech as opposed to Hungarian, adds to the argument that Czech was not a target in the drafting of the Law.

The problem the officials in Bratislava faced was to define a legal framework for the use of one minority-cum-foreign language, while leaving the customary use of another foreign language largely intact and up to those who wish to use it. Their attempt to legislate the complex *status quo* was approached in a manner symptomatic of how the law in general was viewed under communism, and perhaps throughout much of Central Europe's history. The authorities did not want to treat individual foreign languages differently on paper, so – even as they were drafting the Law – some officials I interviewed were speaking of a “common-sense approach,” which usually boiled down to the concept of “understandability.”

The officials were right. Without wording that would make one minority or foreign language more equal than the other ones, *that* put Czech in a legal class of its own in Slovakia, while Czech would not compete with the use of Slovak as the language of government. Any chances that a government official or a teacher in Slovakia spoke Czech, but not Slovak, were practically nil: only 1% of Slovakia's population claims Czech ethnicity and most of them must be at least reasonably fluent speakers of Slovak. Therefore, the problem with maintaining the *status quo* concerned just the media. Article 5 of the Law “On the Media” includes wording that takes care of that. It may appear merely somewhat puzzling if we read it outside the Law's cultural context. Its section 1-a says that foreign-language programming on TV must be subtitled in the *state* language, or “meet the basic criterion of understandability in other ways.” In Slovakia, this actually means that, of all the foreign languages, Czech and only Czech is all right in the media.

My interviews after the Law was passed showed that not only was this exactly how the Law was interpreted, but that the very office entrusted with enforcing the law actually looked for creative ways to help Slovak Television carry Czech programs without breaking another section of the same paragraph, which mandates that when aimed at children under 12, *all* foreign programs must be dubbed in Slovak without mentioning

understandability. For example, after a query from Slovak Television, that office proposed to re-classify an old Czech children's series, popular for about 20 years now, from the category "for children" under which it had always been listed, to "*family* entertainment" and therefore in no need of dubbing. To sum up this part, one aspect of the wording and application of the Law intentionally established a loophole that runs contrary to the presumed goal of the Law to establish Slovak against all the foreign languages. The loophole was created to maintain the *status quo* in the use of Czech, sometimes mistakenly seen as the language and culture Slovakia rejected and broke away from for nationalistic reasons.

Another feature of the Law on Language indicative of the broader cultural context in which it was written is how it was supposed to be enforced and fines collected.

[Before I go on, I'd like to say that perhaps because it was designed to take effect in stages, and due to the subsequent change of Government, no one has actually been cited or fined under this Law.]

The Parliament passed a law whose many sections are highly unlikely to be the grounds for any individual or corporate charges. Disregarding the problems with minority-language use, Slovak citizens probably won't sue a newspaper if it does not use correct grammar; they won't sue a rock station if its DJ uses English words; a store if its sign spells *boutique* the French way rather than in its Slovakized version; nor will they bring to court the airport if the German word for "exit" happens to be written in somewhat larger letters than the same word in Slovak next to it. All of which is made illegal by the Law. And given that the Law allows minorities to organize events in their own languages; permits other cultural events to be conducted in a comprehensible language, which in effect sanctions Czech; and allows artists from abroad to perform in foreign languages, why should anyone worry and file suit, if a person chose to give a public lecture in a language other than Slovak without a Slovak translation(?) – which the Law bans.

While all of this shows some of the difficulties connected with an attempt to legislate the intricate reality of minority language use in a multi-ethnic setting, the Law on Language is particularly interesting in what it shows about people's perceptions of their own language, of what can be a legitimate subject of legislation, and of what shapes legality can actually take. Legislating the sum total of a particular segment of reality – what human language certainly is – proved problematic in itself.

The authors considered it necessary to define what the state language is and they did not think that equating it with the Slovak language was enough. The West Slavic languages³ are fairly close to each other, which is even more true about some of their border dialects, so this might be misunderstood as the kind of language definition tak-

³ Slovak, Czech, Polish, and Upper Sorbian in Germany.

ing place in parts of the former Yugoslavia. But we've already seen that this was not a concern in Slovakia and the Czech Republic after the split, because the two languages were firmly established, and that the Law actually sneaked in provisions to allow the use of Czech as opposed to other languages. The Law's more specific definition of what the state language is reflects a perception of what national language is supposed to be.

While the actual wording may be open to interpretation, the spirit of the Law identifies the *state* language with what it calls, in paragraph 2, the "*codified* version of the state language." It also says that the Ministry of Culture decides what that *codified* version is. The Ministry did decide. It listed 4 books as the source of information on what grammar and vocabulary is mandated for use in the media, at all public events, and on any public display. The 4 books are a spelling dictionary with instructions on capitalization and punctuation, a pronouncing dictionary, a 60,000-word dictionary, and a soon-to-be 40-year-old volume containing declension and conjugation patterns with examples of words that follow them. Of course, in Slovak, like in any language, there is a vast number of words and linguistic phenomena, which are not and cannot be listed in 4 books, 3 of which are mainly dictionaries sharing the same set of words.

Because there has been no lawsuit based on this Law, we don't know how Slovakia's legal system might react, but the problem that has not been addressed is whether any words or grammar that these 4 books do not contain is banned; or allowed and – because it is not defined – can be used in public in whatever shape or form. While such a question may appear academic here, it might prove costly, say, to a company running an extensive advertising campaign with words not listed in the 4 books; and it could be quite threatening to almost any opposition periodical if a government with such legislation in place chose to enforce the Law strictly. To use English examples, it's as if the choice between *cactuses* or *cacti*, *Quebecois* or *Quebeckers*, the pronunciation of [colorAdo] or [clorÆdo], not to mention the spelling of *potatos* and *potatoes*, could be fined up to 5 times the average annual salary, again and again, by the people in the federal government.

The authors of the Law must have assumed that few if anyone would care to bring charges based on its paragraphs that aim to preserve "correct" grammar or to ensure that the status of the state language is not jeopardized by individuals who might choose to mumble at other citizens in tongues without providing a translation. Because it was unlikely that people would litigate even if they knew that there was a Law banning such acts, the Law did not leave it just to the population at large. The enforcement of the Law on Language was entrusted to the authors of the draft, the Ministry of Culture. The Ministry assigned this task to its *Office of the State Language*. The Office began to set up a network of district language inspectors, who were soon renamed "language advisers" to avoid any connotations with policing. (About a dozen were contracted, but the network was never completed.) At the same time, the Office started mailing letters to

periodicals, publishers, and store owners whenever it discovered or was alerted to a breach of the Law. Part of its work was pragmatic. For example, it sought to make sure that medications and foreign-made appliances include Slovak directions for use.

With no charges brought by the citizens and with only a handful of employees, any impact the Office made was needless limited. I was unable to get a clear answer on the two occasions when I pressed in order to learn how many people worked in it. I assumed the people I spoke to were worried by the discrepancy between the air of importance this law was given by the Government parties when it was passed by Parliament and the probably limited capacity of the Office to carry out that mission. My estimate from what I saw and learned was that the Office had about 6 employees. To mention just books, about 1,700 publishers were active in Slovakia at or around that time. The role of the Office was initially only to alert people that some of the things they write or say were in breach of law now. The right of the Office to actually cite offenders was to take effect at a later stage. The highest fine to an individual could reach about a half of Slovakia's average annual salary at that time, and be 10 times higher than that for a corporation or an institution.

This would have given the Government an instrument easy to use against bothersome press or publishers. But regardless of the sections of the Law through which, to use a somewhat inappropriate word, the legislators criminalized activity no one was ready to sue about, perhaps the least usual moment in law enforcement was that any collected fines based on this Law would not be channeled to the national Treasury through law-enforcement and the legal system in the usual manner, but would go directly to the Ministry of Culture's *Pro Slovakia* Fund used to sponsor government-sanctioned artists and events. This appeared to be a compromise and a self-serving gesture. While hoping to enforce "good" language use, the authors of the law balked at the image that the way people use their language would become a regular part of the civil or even criminal code. The assumed cultural benefits the collected fines would be put to seemed to remove the Law on Language from the realm of law enforcement and place it alongside the kind of well-meaning social arrangements where people pay to the kitty if they swear. At the same time, its authors, that is the Ministry of Culture, would benefit and the Government's powers of influence with the media would be enhanced.

While all of this shows the general problem with an attempt to legislate such a complex segment of reality as language and its use and then to enforce such legislation, and while the Law is certainly connected with some of the practices peculiar to the previous government, this Law on Language also points to three more general aspects of post-Communist culture and Central European traditions.

First, although the Law concerns what it calls the *state* language, it does not merely apply to the language used by the government agencies, in schools, and other institutions funded by the taxpayers. It is an all-encompassing legislation affecting not

just the private media, but every leaflet and poster any individual or group of individuals might choose to circulate or display.

Second, without the caveat of “understandability” allowed only to TV and radio, the Law *in effect* says that once something is written and publicly circulated or displayed, it must contain no colloquial language and nothing from any of the regional varieties of Slovak. In other words, the Law reduces what private citizens circulate and display with their own funds to something the Law calls the *codified form of the state language*.

And third, while the preamble to the Law says that the Slovak language is, among other things, an expression of Slovakia’s sovereignty, no part of this Law applies to *foreign* media broadcasting or distributed in Slovakia. For example, the programs of the BBC and of Radio Free Europe originate abroad, but are beamed to Slovak listeners from transmitters in Slovakia, for which London and Washington pay. They are free to broadcast in whatever language they choose – the BBC broadcasts most of the day in English – and commit any transgressions against the Ministry of Culture’s codified form of the state language. English, German, and many other foreign newspapers are sold in Slovakia, and if anyone abroad were inclined so, he or she would be free to publish and export to Slovakia a magazine making a total joke of the codified form. But if a Slovak private radio station broadcasting from the same transmitters as the BBC or RFE, but paying taxes to Bratislava, or a Slovak publisher did the same in their own country, they would be breaking this Law. Before the Law was submitted to Parliament, I asked one of the persons involved in its drafting whether the Law would achieve its purpose if foreign money automatically bought one a license to transgress against the mandated version of language. She was not concerned.

It might be easy to say that all of this shows that the Law was written by the previous Government and passed by its parliamentary majority only as a measure concerning the use of Hungarian. But the word *only* is out of place here. As I mentioned at the beginning, the Government elected in 1998 gave cabinet posts to Hungarian-Slovak politicians and changed the aspects of the Law to which the minority objected the most. In some respects, the current Government went overboard in the opposite direction. Based on Hungarian demands and careful as the previous Government not to use legal wording that would target only one minority, a level of minority language use by the local authorities was mandated that now cannot be met in the Romani villages, because the authorities are unable to find qualified Romani speakers ready to do the job.

This shows that the minority issue cannot have been perceived as the Law’s only thrust. Its other aspects must have contained something positive even in the eyes of the former opposition. Although within 2 months after forming the Government in 1998, the former opposition abolished the whole paragraph on fines and closed the Office of the Ministry of Culture in charge of enforcing the Law, in 1996 most of the opposition

Members of Parliament voted in favor of the Law along with its sponsors. Clearly, Slovakia's Law on Language reflects more issues than a concern with the minorities.

The aspects of the Law *not* concerned with minority issues point to a cultural tradition, perhaps reinforced by the decades of communism, but also inherited from much longer ago, of perceiving what the law says as concepts amenable to the given political climate rather than as a text to be scrutinized and argued in detail by prosecutors and defendants in relatively independent courts. As a result, even after the current Government's amendments to the Law I mentioned, Slovakia still has a relatively new law on the books that mandates the use of the "codified" language in the media and in public. At the same time, these aspects of the Law are not enforceable, because there is no penalty for breaching them.

The Law also shows a blurring of the public and private spheres⁴ and a greater readiness to accept government regulation in personal matters, partly due to the experience that any such regulation will not be what it appears to be in Parliament after it trickles down to the local towns and villages. If they had any opinion on it at all, the people outside the media I spoke to assumed that aspects of the Law concerning the use of "codified" Slovak would either be disregarded at the local level, or a potential source of bribes for some of the "language advisers" appointed by the Ministry of Culture.

But what the reaction to the Law shows, too, is a broad understanding in Slovak society that there is "good" or "correct" language, and that people aspire to use it. After the Law was passed and while the Mečiar Government was still in office, I interviewed journalists from one national and one local newspaper, and editors and speakers from two radio stations, including Radio Free Europe, which was not affected by the Law. The national newspaper was *Sme*, aggressively opposed to the government, and RFE was seen by the Mečiar government in a similar light. None of those I spoke to showed any concern about having "correct" Slovak and the spheres of its use mandated by the Government. Nor were they concerned about the limitation the Law imposed on the use of varieties of Slovak other than its "codified" version. The local journalists I spoke to were in an area with a fairly pronounced dialect. None of them, including a radio speaker from an area of another dialect, showed any interest to use or being free to use colloquial or regional language in their work. An editor from *Sme* summed it up when she said they weren't worried about the Law being used against them, because their Slovak was always correct.

⁴ This remained the case with the updated version of the Law passed on 30 June 2009. Martin Votruba, "The Uncommon Language: Bratislava, Budapest, and Brussels." *Slovak Studies Association Newsletter*, Vol. 32, Fall 2009, 19-25. <http://www.pitt.edu/~votruba/ssttopics/lawsonlanguageinslovakia.html>