



CRI (97) 53

European Commission Against Racism and Intolerance

First report on Hungary

Adopted on September 1997

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INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, inter alia, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law¹, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.
- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

The first series of eleven ECRI's country-specific reports² were transmitted to the governments of the countries concerned in July 1997. The reports are accordingly now made public. The following report contains ECRI's analysis and proposals concerning Hungary.

¹ The report prepared by the Swiss Institute (ref: CRI (97) 38), covering relevant legislation in member States of the Council of Europe is available from ECRI's Secretariat.

² Reports on Belgium, the Czech Republic, Finland, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta and Poland.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all forty member States of the Council of Europe. This first series of eleven reports, for which the procedure was completed by June 1997, will be followed by other series of reports on the remaining member States of the Council of Europe. The order in which the reports are produced has no significance other than that these are the first reports to be completed.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

REPORT ON HUNGARY³

Introduction

In common with the other countries of Central and Eastern Europe, Hungary has over the last few years undergone a period of social, economic and cultural upheaval and transition. Although in many respects Hungary has advanced more quickly than some of the other countries, any problems it is currently experiencing in the field of racism and intolerance and the solutions put forward to deal with these problems must be considered in this context. Given the profound changes which have recently taken place in all spheres, a period of evaluation and consolidation would seem to be a first priority.

Some of the key areas identified by ECRI as meriting particular attention include:

- the importance of monitoring and evaluating legal and other measures which have only recently been established and the need to ensure that such measures are effectively implemented in practice;
- the problems faced by the traditional minorities living in Hungary, particularly the Roma/Gypsy community;
- strategies for dealing with the new phenomenon of migration into the country;
- the need for reliable statistics.

³ Note: Any development subsequent to 7 June 1996 is not covered by the following analysis and is not taken into account in the conclusions and proposals

I LEGAL ASPECTS⁴

A. International legal instruments

1. Hungary has ratified all the relevant international legal instruments with the exception of the European Social Charter. It is hoped that this instrument will be ratified in 1996 as is foreseen.

B. Constitutional provisions

- *Legislation concerning national and ethnic minorities*

2. Hungary should be congratulated for its recognition of the national and ethnic minorities living in the country, and for its acknowledgement of their rights, both collective and individual, as set out in the Act on the Rights of National and Ethnic Minorities. The election of Ombudsmen, particularly the Parliamentary Ombudsman for the Protection of National and Ethnic Minorities (Minorities Ombudsman) is a welcome step to ensure that the provisions of this Act are properly implemented. Furthermore, the process of adopting certain minority rights in acts regulating given large areas ensured by the Act on the Rights of National and Ethnic Minorities has started. The Hungarian Parliament has changed the Acts on Public Education and Higher Education in 1996, to ensure and widen the rights of minority self-governments in connection with education. The draft on the Act on Public Services for Cultural Activities is to be adopted in 1997, and the relevant law will then be harmonised.

ECRI takes note of these developments, and stresses that particular attention should now be paid to disseminating information concerning the provisions of this Act, and to monitoring its effectiveness in practice. Close co-operation and co-ordination with the minority groups concerned is paramount in this respect.

C. Criminal Law Provisions

3. A Bill amending the Criminal Code in Hungary has recently been passed by Parliament. This new legislation extends the legal definitions of offences relating to racial violence, and includes prohibition of membership of certain associations. This legislation is welcomed. However, not all areas of racial discrimination and violence are covered by the body of criminal law, for example: there is currently no prohibition of insult or defamation on grounds of race etc; no prohibition of daily life discrimination or discrimination by officials. Hungary might draw inspiration in these fields from legislation already existing in other countries.
4. Some criticism has been voiced by members of Parliament concerning the inefficiency of the rules of criminal law and law enforcement. Concern has been expressed that the response given to anti-racial violence is not sufficient, and that law enforcement officials do not always behave in a proper fashion. Evaluations of police-related tasks have shown that while police measures have in general been well-chosen, the legal regulations in force do not sufficiently allow for the judging of offences falling into this category or for the proper enforcement of deterrent actions and punishments. Close

⁴ A full overview of the legislation existing in Hungary in the field of combating racism and intolerance is provided in the publication CRI (95) 2 rev. prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography)

monitoring and evaluation of the implementation of legislation is therefore of paramount importance to ensure that any problems are identified and dealt with.

5. Since there is at present little relevant jurisprudence on racism and intolerance, and little experience in dealing with such questions among the judiciary and law enforcement officials, close attention should be paid to the initial and on-going training of all officials working within the law enforcement system. At the same time, victims should be encouraged to bring cases through the provision of legal aid and other assistance. The activities of the National and Ethnic Minorities Bureau for Legal Aid and the government's support for the operation of legal defence offices as non-governmental organisations are to be commended in this respect.

D. Civil and Administrative Law Provisions

6. Relevant provisions do exist in the field of data protection and employment, and the Civil Code prohibits infringements of a person's rights on the basis of nationality, race or religious affiliation. However, since there are at present no specific provisions under civil and administrative law concerning racial discrimination, consideration might be given to the possibility of including such provisions.

E. Specialised bodies

7. The observance of the rules related to the prohibition of detrimental discrimination is controlled by the National Labour Safety and Protection Supervision and the regional inspectors. It might be considered whether the control competence of this office could be extended.

II POLICY ASPECTS

F. Reception and status of non-citizens

8. The practice that police may enter private residences to check non-citizens' identification without warrants is not in accordance with the principle of the equality of individuals before common law. The identification check of non-citizens should be subject to the same rules as the one for the nationals.

G. Education and training

9. It should be considered whether the training of officials, in particular police officials responsible for dealing with non-citizens and other personnel dealing with non-citizens and minorities, could be improved. Such a training may in particular be necessary to improve the situation of Roma/Gypsies and to avoid reported harassment, excessive force and abuse of members of that minority, of refugees and of asylum-seekers by members of the police and by other officials. ECRI notes that an educational programme has started in the academic year of 1996-97 at the College of Police Officers to ensure teaching of knowledge about these groups and the behaviour to adopt in contacts with members of minority groups.
10. The authorities of Hungary are to be congratulated for their efforts to ensure that education is available to varying degrees in almost all minority languages and that the educational institutions place great emphasis on the strengthening and the promotion of better understanding and mutual respect among the nations or people of different ethnic origin.

H. Employment

11. The unemployment rate of the Roma/Gypsy minority group is estimated to be 70%. The national average unemployment rate was 11% in 1995. The special programmes for promoting equality of opportunity in the field of unemployment under the competency of the Ministry of Labour should especially concentrate their efforts on mitigating the unemployment of those who are disadvantaged on the labour-market. The high unemployment rate of Roma/Gypsies may also be due to deficiencies in school education and vocational training.

I. Statistics

12. Bearing in mind the importance of accurate and up-to-date statistics for drawing up policies and evaluating their effectiveness, the efforts of the Hungarian government to develop such sources of information are welcomed. In addition, Hungary could work towards establishing a system of collection of data and information, in accordance with European regulations of data-protection and protection of privacy. Such a system should be developed with the collaboration of representative organisations of the minority groups affected, and drawing from the experience of other countries.
13. National and local surveys concerning the prevalence of racial harassment and violence should also be conducted.

J. Media

14. The media has an important role to play in shaping public attitudes in any country. While politicians and government officials have a responsibility not to supply the media with inflammatory material which may create a climate of xenophobia, the profession itself bears the brunt of responsibility for self-regulation. It should ensure that codes of conduct are drawn up, properly applied, and, as far as possible and appropriate, breaches sanctioned. The new Act on the Media is welcomed as an improvement of the protection against discrimination in particular against members of the minority populations.
15. ECRI notes that the Ministry of Culture and Education started a "Dialogue Programme" in 1995 which supports media and educational programmes presenting minorities and vulnerable groups living in Hungary. The "Dialogue Programme" was the start of a continuous monitoring programme which has been examining the content of the media, news programmes, curricula, advertisements etc. during 1996.

K. Other areas

- ***Agencies responsible for developing/implementing/monitoring policy***

16. In all policy areas, the Office for National and Ethnic Minorities has an important role to play in initiating and co-ordinating action, collecting data, monitoring and evaluating the effectiveness of policy and making policy recommendations. The government is congratulated for its recognition of the importance of this body, and is urged to continue its efforts to strengthen and adequately fund this body as an independent agency of public administration. Inspiration for its future development might perhaps be drawn from other countries where similar bodies have existed for longer periods of time.

- ***Vulnerable groups***

17. Hungary is aware of the difficulties faced by the Roma/Gypsy community, and should be encouraged in the efforts it is making in a variety of fields - housing, education, employment etc - to remedy the situation and in its efforts to investigate reported harassment of Roma/Gypsies (see paragraph 9). In Hungary, as in most other countries, the Roma/Gypsy population faces particular problems and disadvantages, exacerbated by widespread discrimination, and further special efforts must be made to develop policies targeted on this population. In this respect, the recent establishment of an interministerial forum to study the problems of the Roma/Gypsy population is welcomed. It is hoped that close co-operation and co-ordination will be ensured with representatives of the Roma/Gypsy communities themselves within the framework of this forum.

18. There also appear to be some problems in Hungary with anti-Semitism, and targeted policies should therefore be developed to deal with this phenomenon.

General data as supplied by national authorities

For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Hungarian authorities on 13 July 1994.

ECRI accepts no responsibility for the data below.

Armenians, Bulgarians, Croats, Germans, Greeks, Poles, Romanians, Ruthenians, Serbs, Slovaks, Slovenes, Ukrainians

Non-national groups: Far-Easterners, Arabs, Africans, other immigrants

Refugees: 100 000

Population of Hungary: 10 278 000 (1 January 1994). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)

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