

APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Bulgaria

ECRI wishes to point out that the analysis contained in its report on Bulgaria, as indicated on page 5, is dated 18 September 1997, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the Bulgarian authorities to engage in a process of confidential dialogue with ECRI on its draft text on Bulgaria, and a number of his comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Bulgarian national liaison officer expressly requested that the following observations on the part of the Bulgarian authorities be reproduced as an appendix to ECRI's report.

Observations provided by the authorities of the Republic of Bulgaria concerning ECRI's report on Bulgaria

1. The allegation contained in paragraph 2 of the introduction, that Bulgaria's past, when the country "was isolated from incoming people and influences still has an effect on the services and their structures, (which have almost no experience of working under the conditions of an open and dynamic society)", is exaggerated although basically true. The ongoing administrative reform is targeted at overcoming past stereotypes through introducing the European standards of transparency into the public administration and bringing new people therein. The above-quoted sentence, if retained in the text at all, should be revised accordingly.

2. With regard to the wish of some groups (mentioned in the first indent of the third paragraph of the introduction) "to manifest their group identity", it is guaranteed by Article 6 (2) of the Bulgarian Constitution which does not allow any "restriction of rights ... on the grounds of race, nationally, ethnic identity...". Furthermore, Article 36 (2) proclaims that "citizens whose mother tongue is not Bulgarian shall have the right to study and use their own mother tongue together with the mandatory study of the Bulgarian language". Article 37 stipulates: "The freedom of conscience, the freedom of thought and the choice of religion and of religious or atheistic beliefs, shall be inviolable. The State shall assist in the maintenance of tolerance and respect among believers of different religious denominations, and between believers and non-believers as well". With those constitutional guarantees of individual rights, the formulation about the "unclear situation" of the above mentioned groups is not precise. It would be much more concrete and corresponding to real situation if the existing first indent is replaced by the following: "the problems encountered by minority groups and in particular the underprivileged situation of the Roma population".

As to the opinion expressed in the second indent about "the lack of special structures to deal with the problems of minority groups", it has to be recalled that by its Decision No. 449 of Dec. 4-th 1997 the Council of Ministers established a National Council on Ethnic and Demographic Problems as an interagency structure. As mentioned at the beginning, Bulgaria is a Party to the major instruments on human rights including the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights and submits periodic reports on the implementation of the above-mentioned instruments which are also relevant to the issue in point. Furthermore, it has to be taken into account that on October 10, 1997 Bulgaria signed the Framework Convention on Protection of National Minorities. The allegation on the lack of a strategy regarding these issues is not accurate as a special multi-functional programme on an inter-institutional level addressed to one of the biggest ethnic minority groups in Bulgaria - the Roma, was adopted at the beginning of 1996.

3. With regard to the illegal migration problem referred to in indent 3 of paragraph 3 of the introduction, it should be pointed out that this problem is to find its solution within the framework of the preparation of Bulgaria for EU membership and the ongoing process of approximation of the legislation, tightening the border regime concerning nationals of risk countries, replacing the ID documents of Bulgarian citizens in conformity with the European standards, etc.

4. It should be mentioned in para I.A.1 that the Framework Convention on Protection of National Minorities has already been signed by Bulgaria. In addition to that, it should be indicated that the possibility of accession to the European Social Charter (revised) and the European Agreement relating to persons participating in proceedings of the European Commission and Court of Human Rights are under consideration.

5. It should be stated in para I.A.2 that a collection of the basic international instruments translated into Bulgarian has been published and widely distributed at the beginning of the nineties with the assistance of the UN Human Rights Centre in Geneva. The European Convention for the Protection of Human Rights and Fundamental Freedoms has also been translated into Bulgarian and widely distributed.

6. As to the concern expressed in para 4 of the ECRI's draft report on Article 11(4) of the Bulgarian Constitution, it should be noted that this Article has to be considered in relation to Decision No.4 of the Constitutional Court of 21 April, 1992 on the case of compliance of the Movement for Rights and Freedoms with the Constitution. According to that decision, Article 11(4) should be interpreted solely in the light of "the constitutional provisions guaranteeing the exercise of the right (of citizens) to a cultural life of their own, the freedom of choice of a religious denomination, the right of persons, for whom the Bulgarian language is not their mother tongue, to study and to use their own language. In this respect the Constitution of the Republic of Bulgaria does not deviate from the universally recognized principles and standards of international law established to preserve and protect the ethnic, religious, linguistic and cultural identity of persons who, by their own choice, wish to preserve that identity. The Constitution is also in compliance with the international agreements to which the Republic of Bulgaria is a party or has expressed its will to accede". In this context it is relevant to refer to another provision of the Constitution contained in Art. 5 (4) which stipulates that "the international instruments, ratified according to the constitutionally established procedures, promulgated in respect of the Republic of Bulgaria, shall be considered as part of the national legislation. They shall have priority over those norms of national legislation which are not in conformity with them". A detailed and obligatory interpretation of this text is contained in Decision No. 7(92) of the Constitutional Court.

7. As to the observation in para 5 it has to be noted that in accordance with the Bulgarian legal tradition, the term "citizen" implied any person under the jurisdiction of the republic. In this context, wherever "citizen's rights" are mentioned in the Bulgarian law, this includes rights of a person who is under Bulgarian jurisdiction including stateless persons. According to Art. 26 (2) of the Bulgarian Constitution, "Foreigners residing in the Republic of Bulgaria shall be vested with all rights and obligations for which a Bulgarian citizenship is required by virtue of the Constitution or of another law". According to Art. 3 (2) of the Law on the residence of Foreigners in the Republic of Bulgaria, "A foreigner according to this law is any person who not being a Bulgarian citizen, is a citizen of another state or does not have any citizenship".

8. The recommendation in para 17 is already being implemented by training policemen of Roma origin and allocating them to Roma neighbourhoods in Bulgarian cities.

9. Para 23 contains three unfounded allegations, namely:

- "certain political parties and groups still promote campaigns based on ethnic discrimination against the Turkish minority";

- "certain political groups, even in Parliament, attempt to prevent Bulgarian citizens from acquiring double citizenship". Since the beginning of the nineties double citizenship has been tolerated in Bulgaria - some pre-1990 agreements with some states on the avoidance of double citizenship were terminated;

- "there still exist problems of discrimination as regards the access to military service and police force".

They are not supported by facts and should be dropped from the text.

10. Para 26 is unclear and ought to be specified.