

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on Belgium, is dated 18 June 1999, 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 authorities of Belgium to engage in a process of confidential dialogue with ECRI on its draft text on Belgium and a number of his comments were taken into account by ECRI, and integrated into the report.

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

OBSERVATIONS PROVIDED BY THE AUTHORITIES OF BELGIUM CONCERNING ECRI'S REPORT ON BELGIUM

C. Criminal law provisions

- *Mention should be made of amendments to the Acts of 1981 and 1995.*

The Act of 30 July 1981 was amended recently. A convicted person who has received a primary penalty may now be given an ancillary penalty in the form of the suspension of certain political rights for a period of 5-10 years. The rights in question, which are set out in Article 31 of the Penal Code, include in particular the right to carry out public functions or hold public employment or office and the right to stand for election. Under an amendment to the Act of 23 March 1995, this form of ancillary penalty may now be applied to all convicted persons, not only repeat offenders. Whether to apply such a penalty remains a matter for the court's discretion.

D. Specialised bodies and other institutions

Concerning the current functions of the CECLR (which, under the Act of 15 February 1993, include advising and making recommendations to the authorities, providing support to individuals and taking part in court proceedings), the Ministry of Justice has certain reservations about paragraph 10. Specifically, the proposal that the Centre should function as a mediation body with a quasi-official role in the penal

system risks undermining both its independence and the principle of the separation of powers.

On the other hand, there is a case for encouraging voluntary recourse to mediation within the penal system (as provided for in the Act of 10 February 1994) by the victims of alleged racist or xenophobic acts, particularly in cases involving individuals. This procedure requires the prior agreement of all parties and is initiated by the prosecution service. A study of how it might be developed could focus on the CECLR's experience in the field, and involve judges and mediation officers in the prosecution service.

I. Monitoring the situation

Paragraph 20 should be amended to reflect the fact that, since 1993, the statistics unit of the Ministry of Justice Criminal Policy Service - using the registers of the central criminal records office - has kept figures for convictions and suspended and custodial sentences handed down in final judgments in cases of racism and xenophobia. The figures for 1993, 1994 and 1995 (the last year for which they are available) are set out below:

1993 - 2 sentencing orders and 2 individuals sentenced by final judgment;
1994 - 6 sentencing orders and 6 individuals sentenced by final judgment;
1995 - 17 sentencing orders and 17 individuals sentenced by final judgment.

Details of the sentences imposed on these individuals have been compiled only for 1995.

The Ministry of Justice is currently working on an integrated statistics project, which will yield more quantitative information and enable data from different levels of the penal system to be collated in order to provide an overview of, for example, the way that cases of racism are treated in the criminal courts.

Finally, there is a major difficulty in that, in practice, many racist and xenophobic crimes are not classified as such but instead, for example, as assaults. Mention should be made here of the efforts to raise prosecutors' and judges' awareness of the need for a consistent approach in prosecuting persons who commit racist offences (see Section I, C, paragraph 6).

J. Media

Paragraph 21 should refer to the latest joint circular from the Ministry of Justice and the Principal Crown Prosecutors' College (which came into force on 15 May 1999), concerning the communication of information to the press by prosecutor's offices and the police during preliminary investigations. The circular is intended to give substance to the relevant provisions of the Franchimont Act (the Improvement of Criminal Procedure in Inquiries and Investigations Act, of 12 March 1999) and ensure

consistency in its interpretation. It stipulates that the authorities may, on their own initiative, communicate only certain types of personal information about individuals under investigation - namely their sex, age and, in some cases, place of residence. Other personal information, on ethnic origin and nationality, for example, may only be communicated if relevant. The circular will help to avoid the stigmatisation of minorities, and contribute to the general policy of combating racism.

Section II - Issues of particular concern

K. Conduct of law enforcement officials

Reference should be made in paragraph 26 to the efforts already being made, both by the judicial authorities and within the police, to teach those who enforce the law about the problems of racism and discrimination and make them more aware of these issues.

An important initiative in this respect is:

- the judges' training programme on racism which began in 1999.*

The following initiatives have also been taken at various levels:

- 1. basic and in-service training programmes with a particular focus on multiculturalism. Emphasis is placed here on improving knowledge and understanding of the particular problems of foreign and immigrant communities and of intercultural communication;*
- 2. integration of recruits from immigrant communities into the police force;*
- 3. inclusion of a code of professional conduct in the bill laying down basic principles for the status of the new integrated police service. This is intended to encourage the development of attitudes and behaviour that will improve the relationship between the public and the police.*