

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

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on the United Kingdom, is dated 16 June 2000, 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 the United Kingdom to engage in a process of confidential dialogue with ECRI on its draft text on the United Kingdom 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 the United Kingdom be reproduced as an appendix to ECRI's report.

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

“Paragraph 5

ECRI may wish to note that the UK constitution is based upon the premises that Parliament is Sovereign. This is unlike many other European countries, where a Bill of Rights cannot be amended by Parliament. Our Human Rights Act incorporates the ECHR into UK law, but the HRA cannot provide a general superseding guarantee, as ECRI encourages. However the HRA coupled with the Race Relations Act, as we expect to amend it to incorporate the new EC Directive, will provide some of the most robust anti-racism legislation anywhere in Europe.

Paragraph 8

The Government notes ECRI's suggestion that consideration be given to the introduction of a statutory duty requiring the prosecuting authority to place any evidence of a racist motive before the Court. This suggestion was considered when it was raised as one of the recommendations in the Stephen Lawrence Inquiry.

The UK Government would wish to confirm that there is already a presumption that racist crimes will be prosecuted where the evidential test is satisfied, which can only be rebutted by very strong additional public interest factors against prosecution. This has been further reinforced in the code for Crown Prosecutors and the CPS prosecution manual.

Prosecutors have a positive duty to bring evidence of racial motivation to the attention of the court and this is reflected in the prosecution manual. Achievement is specifically measured through the CPS racist incidents monitoring scheme. In 1998/99 the objective was met in 82% of cases.

It has already been made clear that a plea of guilty should never be accepted against an undertaking that available and admissible evidence of racial motivation would be excluded.

Paragraph 11

The Government notes the views of the Committee on these offences. The Government is anxious to ensure that legislation is as effective as possible and will keep these provisions under review. The Government is aware of the presence of racially inflammatory material on the Internet and of the particular problems that the regulation of such material poses. The Government believes that the existing law should apply to material on the Internet in the same manner as any other published material coming within the UK's jurisdiction. The UK Government is examining ways in which the British Internet Service Providers may assist in the regulation of material placed on their servers.

Paragraph 19

ECRI may wish to note that the exemption only permits discrimination insofar as it is required by specified immigration legislation or properly authorised by Ministers. These provisions are subject to stringent safeguards. The Race Monitor will report to Parliament on the operation of the immigration exemption. Individuals who believe they have been unlawfully discriminated against will have a legal right of action. Ministers will of course be answerable to Parliament and to the courts in respect of any authorisations they make under the immigration exemption. And immigration officers exercising new powers of arrest, search and seizure must do so in accordance with the Police and Criminal Evidence Act Codes of Practice (as modified by the Immigration PACE Codes of Practice) Direction 20

Paragraph 44

ECRI should be aware that the scope for reform of the law in this area was considered by the Law Commission in their 1985 Report on Offences against Religion and Public Worship. Their view that the law on blasphemy should be abolished was supported by a Church of England Working Group chaired by Dr. Graham Leonard, the then Bishop of London. The majority of submissions to the Law Commission were in favour of retaining the existing law. The Government holds the view that, as there are sincerely held and strongly expressed views on all sides and since, as the different conclusions reached by the Law Commission illustrate, there is no agreement on the best way forward, it would be a mistake to seek to legislate.

Paragraph 47

Deaths in Custody

ECRI should note that this situation is already monitored by the Government. In England and Wales, 37 (14%) of those dying in police custody between 1 April 1996 and 31

March 2000 have been Black, Asian or from other ethnic minority groups. In 1999/00 the number of people from ethnic minorities who died in police custody or otherwise in the hands of the police was 9, compared with 12 in the previous year. Statistics of the numbers of people from ethnic minorities dying in police custody have only been kept since 1996.

There is no obvious common link between ethnic minority deaths, which have occurred, in a wide range of circumstances. Neither are the numbers involved large enough to draw any significant statistical conclusions.

ECRI should be aware that much work has been done in recent years by the police, the Home Office and the PCA to identify the main factors responsible for deaths in custody and to consider how the position can be improved. Current initiatives include:

- Revising the content and delivery of custody officer training
- Improving training on restraint techniques
- Designing out suicide risks from cells
- Reviewing provision of medical services
- Re-examining facilities for people who are drunk
- Increasing use of CCTY
- Piloting new technology, e.g. life signs monitors

Many deaths included in the figures are the result of self-harm or natural causes, involve alcohol and/or drugs or are included because the definition on the police side extends to cover those who die while trying to evade arrest. That is a key reason why the police are putting so much effort into improving standards of care and supervision.

The Police Complaints Authority (PCA) will supervise investigations into those deaths where there has been a formal complaint or any evidence of any suspicious circumstances. Once the PCA has, satisfied itself that there has been a full and proper investigation, a report is submitted to the Crown Prosecution Service to determine whether any officer should face criminal charges. In either case, the circumstances of a death will be aired publicly, either at trial or at an inquest. The PCA and the chief officer must decide whether or not to bring internal disciplinary charges. The PCA has the right to require this action to be taken if necessary.

The Home Secretary published a feasibility study on an independent police complaints system on 17 May 2000 together with a consultation paper on the options for reform. The consultation period has now ended and we are considering the responses received. We intend to announce our detailed conclusions by the end of the year. The Home

Secretary has long supported the principle of an independent system for investigating complaints against the police, Any reform of the current system must, if it is to command public confidence, involve a greater independent element in the investigation of complaints and greater openness in respect of the results of investigations.

Paragraph 53

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Paragraph 55

ECRI may wish to note that under the Government's New Tackling Social Need policy a Promoting Social Inclusion Working party was established in 1999 to consider all issues affecting Travellers. The Working Party consisted of Government officials (including the Police) support groups and Travellers. It is hoped to have its report to Ministers by September 2000. "