

APPENDIX

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

ECRI wishes to point out that the analysis contained in its third report on Hungary, is dated 5 December 2003, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Hungary was subject to a confidential dialogue with the Hungarian authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Hungarian authorities requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

Observations on the ECRI Third Report on Hungary

as to point 14:

The President of the Republic asked the Constitutional Court to exercise preliminary control over the constitutionality of the new Act amending Section 269 of the Criminal Code. Thus, whether the provision cited in the Report shall enter into force depends on the decision of the Constitutional Court.

as to point 15:

The dissemination of racist documents is prohibited under Section 3 of Act No. 2 of 1986 on the Press. According to this provision, in the course of exercising the freedom of the press no criminal offence or incitement to the commission of criminal offence shall be performed, neither shall public morals or the personal rights of others be violated.

The formation of racist organizations is prohibited under subsection 2 Section 1 of Act No. 2 of 1989 on the Freedom of Association. This Section provides that the exercise of the freedom of association cannot violate the Constitution, cannot constitute or incite to the commission of a criminal offense and cannot violate other persons' rights and freedoms. If despite this prohibition an organization is formed with the aim of changing the constitutional order of the Republic of Hungary either by using force or by threatening with the use of force, Section 139/A of the Criminal Code on organizing against the constitutional order shall be applicable.

as to point 51:

Since 1 February 2003 the Office of Immigration and Nationality has been issuing humanitarian residence permits.

as to point 67:

The Ministry of Health, Social and Family Affairs together with the Office of Equal Opportunity has launched the program of "Tolerance for Health". In this programme specially trained social workers help to treat people, living in disadvantageous circumstances and needing individual treatment (e.g. Romas).

as to point 68:

We recommend to indicate the sources upon which the figures contained in the first sentence are based, because of Hungarian employment authorities do not keep registration on the ethnic origin of the employees.

as to points 88-90:

In Hungary the public prosecution is subordinated to the National Assembly and is absolutely independent from the executive power. During the supervision of investigation it may instruct the police. In certain types of cases it has the authority to conduct investigations independently. Therefore we hold that the organization of the public prosecution fully complies with the requirement of "independent investigatory body".

Budapest, 8 March 2004