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European Commission Against Racism and Intolerance

First report on Czech Republic

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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 the Czech Republic.

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 CZECH REPUBLIC³

Introduction

Following the end of the communist regime in 1989, the former Czechoslovakia underwent a smooth and peaceful dissolution to form the Czech Republic and Slovakia in 1993. The Czech Republic has experienced many changes during the last few years and can still be said to be in a period of transition.

Legal protections for human rights have in many areas been strengthened in recent years. There has been a significant increase in migration into and through the Czech Republic as contacts with other countries have developed, and the country receives many more asylum-seekers and refugees, particularly from Eastern and Southern Europe. The Government of the Czech Republic has recognised a number of the issues relevant to the situation of minority groups and is taking a variety of measures to address them.

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

- the activities of racist groups, particularly skinheads, and the increasing incidence of racist attacks and conflicts, particularly targeting Roma/Gypsies, and in some cases anti-Semitic incidents;
- the increase in the number of voters for the extreme right-wing political party Assembly for the Republic - Czechoslovak Republican Party;
- a rather marked public hostility or mistrust - as expressed in opinion polls⁴ - towards minority groups, particularly the Roma/Gypsy community.

³ Note: Any development subsequent to 4 October 1996 is not covered by the following analysis and is not taken into account in the conclusions and proposals.

⁴ Cf. Antisemitism World Report (see bibliography).

I LEGAL ASPECTS⁵

A. International legal instruments

1. The Czech Republic has not yet ratified the European Social Charter, the Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities. It is understood that steps are currently being taken to make the necessary changes in legislation to enable ratification of these instruments, and it is hoped that a successful conclusion will be reached as soon as possible. It is also understood that the Czech Republic is taking steps to recognise the competence of the Committee for the Elimination of Racial Discrimination to handle individual complaints under Article 14 of CERD.

B. Constitutional provisions

- *Citizenship law*

2. Article 12 of the Constitution provides that the procedures controlling the acquisition and loss of Czech citizenship are determined by law, and the details of this law are set out in Law No 40/1993 Coll., as amended. ECRI notes that the Constitutional Court upheld in 1994 the validity of the citizenship law, and that the Czech authorities consider the citizenship law to be in conformity with relevant international standards. However, the citizenship law and its application have been the subject of much controversy, particularly as regards the situation of the Roma/Gypsy population in the Czech Republic. The situation of the Roma/Gypsy population is aggravated by the fact that they, like some other groups, to a comparatively large extent failed to apply for Czech citizenship in due time. The Czech authorities consider that these persons failed to show the necessary initiative and apply for Czech citizenship within the prescribed period, and that the State authorities have taken all the steps which might be reasonably requested in this respect (dissemination of information, instructions) to create favourable conditions. The details of this controversy are set out in the report prepared by Council of Europe experts to the governments of the Czech Republic and Slovakia, which contains a number of recommendations made to both governments and to each of them separately⁶. Without entering into the debate on the individual issues raised in this report and in the reply of the Czech Republic, ECRI hopes that co-operation between the Council of Europe and the Czech Republic will continue on the basis of this report and that progress will be made in resolving any remaining difficulties.

C. Criminal law provisions

3. The definition of crimes with a racial motivation was introduced in the Criminal Code of 1991. Recent changes to penal law, which took effect in September 1995, increasing sanctions for crimes with a racial motivation and including the prohibition of racist organisations and publications, are a welcome step forward, and it is hoped that the effect of these changes will be evaluated and monitored.

D. Civil and administrative provisions

⁵ A full overview of the legislation existing in the Czech Republic 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).

⁶ See bibliography.

4. The Czech Republic does not have civil or administrative law provisions covering discrimination in employment and housing. It is suggested that anti-discriminatory law in the fields of housing and employment might be enacted, expressly allowing the possibility of civil action for racial discrimination.

- ***Legal aid***

5. Article 37, paragraph 2 of the Charter of Fundamental Rights and Freedoms safeguards the right to legal assistance for all natural persons irrespective of a person's Czech or foreign citizenship. However, this does not appear to include the right to have such assistance provided free of charge by the State in civil cases if the person in question cannot afford his or her own legal costs. Trade unions, some NGOs and sometimes the mass media provide free legal assistance in some cases, particularly in discrimination cases; however, it is felt that the State itself should guarantee free legal assistance where necessary, and that this issue should be examined in the Czech Republic. In this regard, the legislation of many other European States may prove useful.

E. Specialised bodies

6. Although there is no special body dealing with racism in the Czech Republic, the Council for Minorities of the Government enjoys a prominent position in this sphere. However, the Council is an advisory body and, like other advisors to the Government, is not part of the executive branch. The Council, headed by a member of the Government, works to promote, especially at ministerial level, measures designed to suppress racism and intolerance. As for the executive branch, combating racism is one of the functions of the Crime Prevention Department of the Ministry of the Interior. An agency responsible for co-ordination in this sphere is the National Committee for Crime Prevention, composed of representatives of all bodies of the executive branch which may be involved in problems related to racism. Having regard to positive international experience as regards specialised bodies to combat racism and intolerance, consideration might be given either to widening and strengthening the powers of the Council of Minorities, to allow it more competence in the field of combating racism and intolerance, or to the creation of a specialised body with competence in this field.

II POLICY ASPECTS

F. Reception and status of non-citizens

7. While the Czech law guarantees social rights to non-citizens holding a permanent residence permit issued by the Ministry of the Interior, there have been some complaints regarding access to social services such as health services, welfare services and housing provision, namely in relation to the Roma/Gypsy community, persons who are Slovak citizens and have indicated their intention to live in the Czech Republic. The Czech authorities consider that as regards the Roma/Gypsy community, the problem is that in individual cases they do not take steps to regularise their status, ie to legalise their residence in the territory of the Czech Republic or apply for Czech citizenship. It is suggested that this area be examined to ensure equal access to social service provision for all those resident within the Czech Republic.

G. Education and training

- ***Awareness-raising***

8. Given that public opinion appears sometimes to be rather negative towards certain groups, especially the Roma/Gypsy community, it is suggested that further measures be taken to raise public awareness of the issues of racism and intolerance and to improve tolerance towards all groups in society. In this respect, politicians and other public figures can play an important role in shaping public opinion and in avoiding expressions which may lead to sentiments of intolerance or xenophobia.
9. Furthermore, special measures should be taken as regards education and training of the members of minority groups, particularly members of the Roma/Gypsy community.

H. Employment

10. It has been reported that the situation of the Roma/Gypsy population as regards gaining employment is still difficult, and that few steps are taken against employers with discriminatory recruitment practices. ECRI stresses that trenchant and vigorous action against discrimination in employment is fully compatible with a market economy, and notes that a variety of possibilities exists to redress such discrimination - for example, financial compensation or reinstatement or recruitment of persons discriminated against. The Czech authorities might draw inspiration from the range of practices which have proved successful in other countries in dealing with the problem of discrimination in employment.

I. Statistics

11. The most recent data on national composition in the Czech Republic was published in the 1993 Statistical Yearbook based on the results of the 1991 census. National composition as determined by the 1991 census has not been included in the 1994 and 1995 Statistical Yearbooks as an ongoing series. The Czech authorities state that data on demographic composition other than census results cannot be published in the Czech Republic with regard to legislation designed to protect personal data and privacy. It is suggested that steps should be taken to improve information on the Roma/Gypsy community at the level of local authorities, research institutions and non-governmental organisations in order to facilitate the planning of social policies in relation to the Roma/Gypsy community.

J. Media

12. While racist reporting in the media is not considered widespread, some media, on occasion, report on race-related issues in a sensational fashion. The media has an important role to play in combating racism and intolerance. The mass media should be encouraged to report racist incidents in a responsible fashion, and to disseminate positive information, raising public interest in other cultures and illustrating the benefits of cultural diversity. Codes of self-regulation may prove useful in this respect.

K. Other fields

- *Policing policy*

13. There are suggestions that police enforcement of criminal legislation is not always vigorous and consistent, and that sentencing policy is not consistent in this area. It is suggested that measures be examined to ensure that cases of offences with racist motives are treated seriously by the criminal justice system. In this respect, training for members of the police and judiciary may be beneficial. It is noted that considerable

efforts have already been made in this field, and that the figures concerning the numbers of prosecutions and formal charges in respect of crimes motivated by racial, national or other hatred have shown a marked improvement over recent years.

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 Czech authorities on 13 July 1994.

ECRI accepts no responsibility for the data below.

Largest national minorities: Slovaks (314,877), Poles (59,383), Germans (48,556), Roma/Gypsies (32,908); Hungarians (19,932)

Non-citizens with long-term or permanent residence: 77,000 (end of 1993), mostly citizens of Poland, Vietnam, Ukraine, former USSR, former Yugoslavia, Bulgaria, Germany, USA, China

173 persons were granted refugee status in 1993

2,400 temporary asylum-seekers from former Yugoslavia by end of 1993

Population of the Czech Republic: 10 302 000 (inhabitants of Czechia on 3 March 1991). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)

BIBLIOGRAPHY

This bibliography lists the main sources consulted during the examination of the situation in the Czech Republic: it does not cover all the various sources of information (media, contacts within the country, national NGOs etc) which were utilised.

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