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European Commission Against Racism and Intolerance

First report on Slovakia

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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.

A first series of ECRI's country-specific reports was made public in September 1997 and a second series in March 1998². A third series of country-specific reports was transmitted to the governments of the countries concerned in April 1998, and is thus now being made public³.

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 The first two series comprise reports on Belgium, the Czech Republic, Finland, Germany, Greece, Hungary, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, Poland, San Marino, Slovenia and Switzerland.

³ Reports on Bulgaria, France, Italy, the Netherlands, Portugal and Slovakia.

The following report contains ECRI's analysis and proposals concerning Slovakia.

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 third series of reports, for which the procedure was completed by April 1998, will be followed by other series of reports during 1998 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. It is intended to complete the first round of country reports by the end of 1998.

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 SLOVAKIA⁴

Introduction

After the end of the communist regime in the former Czechoslovakia in 1989, Slovakia and the Czech Republic peacefully split in 1993. Over the past few years Slovakia has undergone many changes on the road towards democracy and a market economy and may still be regarded as going through a transitional period. The democratisation process has not yet been completed. The Constitution provides for a parliamentary democracy with the separation of powers and an independent judicial system.

The separation of the two Czech and Slovak political entities does not pose major problems for Slovakia in view of the way in which the population was distributed at the beginning of 1993: there are 308,000 Slovaks in Bohemia and Moravia, i.e. less than 3% of the total population (1991 census). The number of Czechs living in Slovakia is estimated at 53,000, i.e. about 1% of the total population. On the other hand, independent Slovakia is home to most of the minority groups of the former Czechoslovakia (Hungarians, Roma/Gypsies, Ukrainians, etc). It has in total ten national minorities, which account for about 15% of the population (3% in the Czech Republic).

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

- the problems of traditional minority groups living in Slovakia, in particular the Hungarian national minority;
- the particularly disadvantaged situation of the Roma/Gypsy community;
- the restrictive nature of the law on the State language;
- the need to develop a reliable system of data collection in the field of minority groups and the problems of racism and discrimination.

⁴ Note: Any development subsequent to 18 September 1997 is not covered by the following analysis and is not taken into account in the conclusions and proposals.

I LEGAL ASPECTS⁵

A. International legal instruments

1. Slovakia has adopted all the obligations arising from the international treaties to which the former Czech and Slovak Republic was a party and the national legislation implementing these treaties is being revised and updated. Slovakia has ratified most of the relevant international legal instruments aimed at combating racism and intolerance, including the Framework Convention for the Protection of National Minorities. However, it is felt that it would be advisable to consider ratifying the European Social Charter and the European Charter for Regional or Minority Languages. Slovakia has stated that it will accede to the latter as soon as the law establishing the new territorial and administrative organisation is promulgated; the law was adopted in March 1996.

B. Constitutional provisions

- *Legislation on national and ethnic minorities*

2. On the basis of the provisions concerning the whole territory of the former Czechoslovakia, the Slovak Constitution includes a few provisions on the rights of national minorities and ethnic groups. Article 33 of the Constitution prohibits discrimination against national minorities and ethnic groups in general ("Belonging to a national minority or ethnic group shall not be disadvantageous to anybody"), while Article 34 sets out the basic provisions governing the rights of minority groups. Before partition, the former Czech and Slovak Republic recognised the rights of the Roma/Gypsy minority group in a document entitled "Principles and Policies of the Czech and Slovak Governments Concerning the Roma". Slovakia has confirmed this commitment with Resolution 153 on "The Principles of the Slovak Republic's Government Policy on the Roma". Like other minority groups, the Roma/Gypsies are covered by Articles 33 and 34 of the Slovak Constitution governing the rights of national minorities and ethnic groups.
3. In March 1996 the Slovak Parliament ratified the agreement laying the foundations for relations between Slovakia and Hungary. A resolution was adopted expanding on the provisions of this "Slovak-Hungarian" agreement. Furthermore, a new administrative organisation was set up which has created new administrative districts in which Hungarians do not reach a representation level of 30%, which would have allowed them to secure a better position on local government bodies. In addition, the law of 1995 on the State language, which recognises only Slovak as the official language, was felt by the Hungarian national minority to be discriminatory, and the Hungarian coalition has appealed to the Constitutional Court. Until 1996 the Hungarian minority was entitled to use its mother tongue in schools and in the administration in municipalities where it exceeded 20% of the population. The new law, which entered into force in January 1996, made the use of the Slovak language obligatory for any written or oral official procedure and restricted the use of minority languages for official purposes. Although the Constitution of 1992 provides in its Article 34.2b that citizens who are members of a national minority "have the right to use a minority language for official communications", Parliament has never passed a law to implement this Article. Since

⁵ A full overview of the legislation existing in Slovakia to combat racism and intolerance is provided in the publication CRI (95) 2 rev. prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography).

January 1996 offences against the law on the State language are punishable by criminal sanctions; these penalties would appear to have been suspended until January 1997. ECRI notes that parts of the law on the State language were declared unconstitutional in September 1997 by the Constitutional Court. ECRI notes that in the context of this decision, the Ministry of Culture is currently preparing an amendment to the law on the State language.

4. The right to use first names and family names and the right to put up road signs indicating place names or topographical details are provided for by two separate laws. Law No. 154/1994 on registers entitles members of national minorities to use first names and family names in their own language, even on official documents. Law No. 191/1994 on municipal road signs in the languages of minority groups authorises the use of such signs provided that the minority population in the municipalities concerned accounts for more than 20% of the total population. The municipalities meeting this requirement are listed in the appendix to the law. ECRI feels that municipalities should be encouraged to use bilingual road signs in conformity with this law.

- ***Citizenship law***

5. Reference should be made to the report prepared by the Council of Europe experts on the citizenship laws of the Czech Republic and Slovakia and their implementation, which contains recommendations to the authorities of the Czech and Slovak Republics⁶. ECRI hopes that co-operation between the Council of Europe and Slovakia in this area will continue on the basis of this report and that solutions will be found to any remaining problems. This report recommends, inter alia, that the authorities pay particular attention to the situation of members of the Roma/Gypsy community as regards citizenship and that citizenship is granted to all those individuals who have become de jure stateless.

C. Criminal law provisions

6. Discrimination is made a punishable offence by several articles of the Criminal Code (especially Articles 196, 197a, 198 and 198a).
7. The police and judicial authorities often take a passive attitude to acts of violence against Roma/Gypsies and to inter-community conflicts. Human rights monitoring bodies have observed on several occasions that the police in general often refuse to record statements by witnesses of skinhead attacks against Roma/Gypsies, and report that the police exert pressure on the victims of police brutality to withdraw their complaints, while the media, doctors and investigators refuse to give specific descriptions of the victims' injuries. ECRI feels that crimes with a racist motivation should be defined and prosecuted as such. Incidents and areas of conflict between the police and the Roma/Gypsy community should be systematically investigated and offences should be firmly prosecuted. The initiative taken by the municipality of Prievidza, where the police have since February 1997 been systematically monitoring the situation as regards skinhead attacks against Roma/Gypsies, could serve as a good example for other towns. Furthermore, it would be advisable to plan special training courses and awareness training for the police and other authorities in contact with minority groups such as the Roma/Gypsy community. Other possible measures might

⁶ See bibliography.

include the training of Roma/Gypsy mediators or the recruitment of members of this community into the police force.

8. It would also be desirable that the State provide free legal aid to any victim of discrimination without sufficient means to bring a case before the courts.

D. Civil and administrative law provisions

- Labour Code

9. Article III of the Labour Code recognises citizens' right to work and to be protected against unemployment without discrimination on grounds of race, membership of a national or ethnic group, etc. Likewise, the preamble to the employment law states that citizens have the right to employment irrespective of race etc. However, the actual application of these provisions (contained in the preamble to the Labour Code) seems unclear, and legal opinion is divided as to whether they form an integral part of the law or not. ECRI is concerned by reports that State and private employment offices have published lists of job vacancies specifying "no Roma" and have taken little action against employers who engage workers on a discriminatory basis. The penalties provided for by Articles 270 and 270a of the Labour Code have never been applied against employers contravening Article III of the Code. It would therefore be advisable to ensure that these articles are effectively applied and to punish all forms of discrimination in employment. Furthermore, since employers are in a better position to prove that their choice of employee is well-founded than victims are to prove that discrimination has taken place, ECRI feels that it should suffice for an applicant to provide some evidence of discrimination in cases of this kind.

E. Specialised bodies

10. Mention should be made of the setting up of a "Round Table" on the initiative of the President of the Slovak Republic. This is a forum for discussing issues relating to national minorities and ethnic groups. The government has also appointed a general representative to monitor the problem of violence against Roma/Gypsies. However, contrary to the wishes of the Roma/Gypsy minority group, the representative does not deal only with Roma/Gypsy affairs, but also with all sorts of problems encountered by "disadvantaged citizens". In view of the particularly difficult situation facing the Roma/Gypsy community, consideration should be given to the possibility of setting up an independent specialised body to deal with problems relating to racism and intolerance, such as a special commission or specialised ombudsman, as in other countries.

II POLICY ASPECTS

F. Situation of national and ethnic minorities

11. In Slovakia as in several other countries of central and eastern Europe, Roma/Gypsies belong to the most disadvantaged sections of society. Apart from a few isolated cases, they live outside the public arena, cut off from decision-making centres and the main currents of political opinion. They are often the victims of skinheads' violence and are regularly subjected to ill-treatment and discrimination by the authorities (see paragraph 7).
12. The main problems facing the Roma/Gypsy community, especially women, are very widespread illiteracy, a low school attendance rate, obstacles hampering access to education, deficiencies in health care and family planning, shortcomings in the application of existing legislation, rising unemployment and last but not least, racism and violence. While noting the initiatives which have already been taken, ECRI feels that there is an urgent need for action programmes on education (children and adults), health care, vocational training, especially for women, and information for non-Roma/Gypsies on the Roma/Gypsies' contribution to European culture.
13. Tensions between the Slovak majority group and the Hungarian minority group have escalated recently, particularly over the issue of education in the Hungarian language and the use of this language in official communications and in administrative procedures. The Hungarian minority is well represented in parliament and local government, but not in central government. The leaders of the Hungarian coalition are asking for greater powers of direct management as a form of self-determination and more independence and financial support from the State to express their culture and maintain their schools. A solution should be negotiated with representatives of the group concerned to resolve these differences as quickly as possible.

G. Reception and status of non-citizens

14. The situation of asylum seekers and refugees was apparently clarified by the law of January 1996 on refugees. However, it would be advisable to further develop a consistent policy on refugees and asylum and to provide special training for the officials responsible.

H. Education and training

15. The law entitles minority groups to establish and maintain cultural and educational institutions. It also provides for the establishment of private schools and the use of school textbooks different from those on the Ministry of Education's official list. Moreover, the authorities are empowered to establish schools for minority groups. The school system for minority groups is developed in the private sphere and provides education in the minority language at all levels. As far as universities for minority groups are concerned, there is only one private establishment of this kind. The representatives of the Hungarian minority have requested the establishment of a public university providing tuition in Hungarian: the merits of this request might be considered. Moreover, Slovakia might augment its provision of resources for higher education for future teachers in Hungarian schools.

16. The government recently abolished monolingual secondary schools for the Hungarian minority and replaced them with bilingual schools. According to government statements, the sole purpose of this change is to allow parents to choose the language of their children's schooling freely and to help improve knowledge of the Slovak language among the young members of the Hungarian minority. It is noted that a decree of the Ministry of Education of May 1997 prohibits Hungarian schools from providing graduates with bi-lingual certificates, which led to considerable protest. ECRI takes the view that any change in the school system for minority groups should be the subject of ongoing political dialogue between the two parties concerned so as to identify mutually acceptable solutions.
17. Schooling, which is compulsory from the age of 6 to 14 years, seems to pose problems for Roma/Gypsy children as in other countries. This community's distrust of the traditional school system is heightened by the marginalisation which often faces Roma/Gypsy children. Special measures are needed to take account of the children's special needs. Initiatives such as the publication of a bilingual reading book and the introduction of preparatory classes for teaching the Slovak language might be more widely-developed. Special attention should be paid to the underrepresentation of Roma/Gypsy pupils in secondary and further education and measures taken to improve this situation. Consideration might be given to whether more widespread mother tongue teaching would be of assistance to Roma/Gypsy pupils. It is particularly important that all measures are taken in close collaboration with representatives of the community concerned.
18. To reduce discrimination and prejudices faced by the Roma/Gypsy community and particularly Roma/Gypsy children in schools, awareness-raising measures to improve knowledge of the Roma/Gypsy communities' culture and lifestyle among pupils in the majority group and teachers should be introduced.

I. Employment

19. Although the number of unemployed in Slovakia is falling, it remains fairly high at 13.5% and in some regions even reaches 28%. The Roma/Gypsies are among the population groups hardest hit by unemployment, though it is difficult to give precise figures on account of the large proportion of "family" and casual jobs among Roma/Gypsies. These very high unemployment rates may be due to several factors: they are clearly linked to ethnic discrimination, which is often practised by employers, and in most cases they also stem from the poor skill levels and even illiteracy of many Roma/Gypsies. Women are especially affected by discrimination at the workplace, particularly where wages are concerned. What is needed is to introduce a comprehensive policy for the education and training of children and adults in the Roma/Gypsy community.

J. Statistics

20. As a rule, members of minority groups are now identified as a result of their voluntary declaration under the census. Changes in the statistics on the situation of minority groups over the past ten years cannot be considered reliable because some types of problem have not been studied in a continuous fashion and the data on various trends have not been systematically collected and published. Furthermore, people belonging to a minority or religious group are often reluctant to register as such for fear of encountering discrimination and harassment. Lastly, the inadequate amount and scope of statistics on minority groups is partly due to the simple fact that the members of those groups, especially those of the Roma/Gypsy community, do not behave in a uniform manner when it comes to registering. It is hoped that a reliable system of data collection will be developed in accordance with European standards and recommendations on data protection and the protection of privacy.
21. The statistics on non-citizens in the refugee category are updated daily and consolidated every month, but they are not published. It would be advisable to publish these data periodically.

K. Media

22. Without undermining the principle of media independence and freedom of expression, existing legal measures should be implemented and effective educational initiatives should be developed against the dissemination of all forms of nationalist propaganda with racist, xenophobic or anti-Semitic connotations, as occasionally appears on an extremist fringe of the national press. The Roma/Gypsy minority group remains a favourite target of hostile propaganda on the part of many media.
23. The Hungarian minority publishes a number of newspapers and magazines. Slovak radio broadcasts a daily programme in Hungarian (totalling 35 hours a week) and Slovak television broadcasts only 35 minutes a week in Hungarian, except the last week of the month when this is supplemented by the programme "National Magazine" (Hirmagazin). Consideration should be given to the possibility of increasing Hungarian-language television programmes.

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 Slovakian authorities on 13 July 1994.

ECRI accepts no responsibility for the data below.

Minority groups: Hungarian (10.76% of the population); Roma/Gypsies (1.53%); Czechs (1.01%); Ruthenians (0.32%); Ukrainians (0.26%); Germans (0.11%); Moravians (0.07%); Poles (0.06%).

Citizens of other nationalities account for 0.25% of the whole population. The main group of non-nationals (permanent or long-term residents) consists of nationals of the Czech Republic, the former Yugoslavia, former USSR, Vietnam, Poland, Romania and some Arab countries. Other groups mentioned: Africans, Americans, British.

Refugees: from the former Yugoslavia, former USSR (Armenians, Azerbaijanis, Ukrainians) Bulgaria, Romania, Cambodia, Vietnam, Iraq and Angola.

Population: 5,336,400 (1 January 1994). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)

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