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

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on Portugal, is dated 20 March 2002, 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 Portugal to engage in a process of confidential dialogue with ECRI on its draft text on Portugal and a number of her comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Portuguese governmental authorities expressly requested that the following observations on their part be reproduced as an appendix to ECRI's report.

Observations provided by the Authorities of PORTUGAL concerning ECRI'S report on PORTUGAL

“SEF's ACTIVITY

Paragraph 27 - draft of an alternative wording

Within the asylum procedure one has to distinguish the decision on the admissibility of the application and the decision whether to grant or refuse the refugee status. “In the former the applicant is required to file an application within a period of eight days with the Aliens and Frontiers Service (SEF), which notifies the Portuguese Council for Refugees (CPR) an independent, non governmental organisation responsible for helping asylum seekers. During this phase, the asylum seekers are placed in a reception centre run by the CPR. The SEF is required to make a decision on admissibility exactly twenty days after the application is filed. If the application is rejected by the SEF, the applicant may request a review by the National Commissariat for Refugees. In the event of a negative decision, the applicant can appeal to the administrative court."

The appeal against the decision to refuse the refugee status has the effect of a stay of execution. The appeal against the decision of the National Commissioner for Refugees, on the contrary, does not have that effect. The decision remains binding on the applicant. The aim of the admissibility procedure is to verify if the application is manifestly unfounded or not.

The aim is to avoid false asylum claims and the fraudulent resort to a noble instrument.

Paragraph 30 - draft of an alternative wording

“ …It has been reported some asylum…in order to support themselves." During the admission stage, the applicant has no access to the labour market. It is worth noting, however, that the admissibility procedure lasts maximum 2 to 5 weeks and during this period the National Commissioner for Refugees, which is financed by the Portuguese State, takes care of the applicant.

Once the application is accepted, the applicant is issued with a temporary residence permit. This temporary residence permit entitles him to enter the labour market or, if he does not find a job or is having grave financial difficulties, to receive support from the social security.

The applicants receive legal aid given by the Portuguese Council for Refugees and they have access to the national health system.

Paragraph 31 - Comments on ECRI's recommendations

As far as the asylum claims made at border points are concerned, they are handled speedily without questioning the applicants' rights. The applicants are heard and the evidences are assessed. In case of doubt the decision is in favour of the applicant, in other words, the application is admitted.

Paragraph 50 - draft of an alternative wording

The issuance of leaves to stay was an expeditious mechanism for giving illegal workers an opportunity to regularize their position by obtaining the necessary leave to stay. The number referred by ECRI - more than 150.000 immigrants have regularized their position with resort to this instrument - expresses the success of tables initiative.

The security problem regarding the holders of a leave to stay is the same as the one concerning the holders a work visa. And obviously it would be senseless to create a system that would be more favourable to those would had entered illegally than to the legal immigrants, holders of the adequate work visa.

There are, it is truth, employers putting their workers under pressure. Some of these employers refuse to make a contract with them. However, alternatives solutions, such as the possibility of proving the labour relations with resort to witnesses or the possibility of trade unions and immigrants’ associations intervening in this process, are provided for in the regulations concerning the law relating to aliens.

Paragraph 51 - draft of an alternative wording

ECRI is particularly concerned about the renewal of temporary residence permits. But Serviço do Estrangeiros e Fronteiras (SEF) explained that the time the renewal of "temporary residence permits" is taking -a fact that concerns SEF too- is due to the huge increase in the applications for temporary residence permits, that have to be examined and eventually granted, as a result of the growth of the immigrant population. Measures have been taken to overcome this situation and recover lost time. So, at present, this problem is facing only the Direcção Regional de Lisboa e Vale do Tejo e Alentejo (one of SEF's regional offices).

Paragraph 56 - Comments on ECRI's recommendations

A person who holds a visa is not entitled to enter national territory. The visa only entitles him to go to a border control point and request leave to enter the country. This possibility derives from the common handbook for the control of external borders, thus this is not a practise exclusive to Portugal. All EU State Members resort to it. The visa is cancelled at the border control points when it was obtained by false means or when its holder is reported for purposes of non admission to the Schengen area.

As regards the use of interpreters during the interviews for which the immigrants are called for, SEF has a group of interpreters to whom it pays a fee. They are nationals of the main countries of origin of the immigrant population and are skilled at speaking the languages of those countries. Nevertheless, the great majority of the immigrants living in Portugal come from Portuguese speaking countries

There are no cases of immigrants being deprived of their rights for linguistic reasons.

Paragraph 57 - Comments on ECRI's recommendations

Regarding the fact that the citizens who apply for naturalization have to produce evidence of their means of subsistence, as explained in the last paragraph of point 57, at present the Portuguese authorities do not require the foreign nationals to present more means than those earned by the national citizens, be it salaries or pensions.

Paragraph 59 - Comments on ECRI's recommendations

As regards the concerns expressed by ECRI in its report, namely the concerns relating to discrimination due among other factors to the physical appearance, Portugal does not have indicators of the existence of such cases. One of the reasons is that Portuguese and African nationals have a Iong history of mixed community life.

We may in fact consider that the workers coming from Eastern countries are integrating well. They are all over the country and not only in the urban zones (mainly in the Lisbon region) as, generally speaking, it happens to be the case of the African communities.

There is another very important factor, namely the fact that the people living outside towns and cities feel more sympathetic towards the immigrant population. One must not forget that in the past many of the Portuguese who immigrated were from Portugal's countryside.”