

APPENDIX

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

ECRI wishes to point out that the analysis contained in its third report on Slovakia, is dated 27 June 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 Slovakia was subject to a confidential dialogue with the Slovakian authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

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

View-Point to the „Draft Third Report on Slovakia“ of the European Commission Against Racism and Intolerance (ECRI)

The Slovak Republic appreciates constructive dialogue with ECRI as well as experiences and professional knowledge of its experts who visited Slovakia in April 2003. The visit of ECRI experts was a significant contribution to the process of application of measures aimed at combating racism, racial discrimination and intolerance in Slovakia. The Slovak Republic approach the issues presented in the draft Third Report of ECRI on Slovakia (hereinafter referred as the Report) with a great attention and consider them in carefully. The Slovak Republic is devoted to meet those objectives to which the Council of Europe attaches its long-term attention while combating racism and intolerance. The Slovak Republic is interested in, and we anticipate that ECRI is also interested in the Report reflecting real facts and being an objective picture of the present day situation in a fight against racism and intolerance.

These are the comments of Slovak authorities to particular parts of the ECRI´s report:

Criminal law provisions (New Code of Criminal Procedure)

One of the main objectives of the new conception of the criminal procedure (the re-codified draft of the Code of Criminal Procedure) is to strengthen the position of a victim in a justice system (ECRI Recommendation No.10). Under the currently valid Code of Criminal Procedure a victim has a right, under certain circumstances, for a reimbursement of legal charges in the procedure. Victim can claim also damages within criminal proceedings. The claim should be brought at the beginning of the court session and the victim has the right to appeal against the decision on damages. The Act No. 255/1998 Coll. provides for financial compensation to persons who suffer bodily harm as a result of a violent criminal offence. (ECRI Recommendation No.21).

Civil and administrative law provisions (Anti-discrimination Law)

The Slovak Republic welcomes the interest of ECRI to support introducing a comprehensive and clear legal framework against discrimination in Slovakia and hopes that this aim will be achieved soon. However, we do not consider necessary to strictly determine a way (ECRI Recommendation Nr. 27) how to secure anti-discrimination legislation (e.g. process of approving the new draft Anti-discrimination Law in the Slovak Parliament).

Roma/Gypsy community

The Government of the Slovak Republic is fully aware of the seriousness of all problems faced by members of the Roma national minority living in Slovakia. Solution of these problems has become one of the priorities of the Slovak Government´s policy and its need was stipulated in the Policy Statement of the Government issued after the election in 1998 and also after the last election in 2002. The policy of forced assimilation of Roma in a period of communism had influenced this community in a very negative way causing disruption of its social structure and consequential aggravation of a relationship between majority and minority population. Improving the situation and fighting deeply rooted prejudices is not an easy task. It requires a sensitive and comprehensive approach in a long time period and is often limited by lacking financial resources in a transitional country economy.

The Government of the Slovak Republic admits that a high percentage of members of the Roma national minority are currently not at the same level as the majority population is and therefore considers necessary to take measures in different areas in order to reach equality of opportunities. The Basic Positions of Slovak Government´s Roma Communities Integration Policy adopted in April 2003 create a set of concrete steps reflecting stated

political will. The principle of affirmative action has become an inevitable basis for improving the situation of Roma in the most sensitive areas: education; employment and social issues; housing; health-care; human rights; cultural development. Furthermore, the Basic Positions introduce a conceptual approach leading to equal participation of Roma on political, social and economical life in the country. A long-term aim of this conception should be a radical change in a negative perception of the Roma minority by majority population.

Monitoring the situation

In the last census in 2001 89 920 persons identified themselves as Roma. However, the real size is estimated to fluctuate from 350 000 to 380 000 persons. An independent Institute for Public Issues has confirmed this figure after carrying out a demographic assessment recently.

According to the Constitution of the Slovak Republic everyone has the right to freely decide on his or her nationality. In spite of this the Slovak Government is aware of the fact the majority of Roma do not use this opportunity because of their fear from discrimination and also because of their lacking awareness of Roma cultural and national identity. Owing to this situation the most of the project activities concerning Roma issues do not come out from official statistics but rather from estimated figures or from an exact number of Roma settlements in Slovakia.

Access to welfare, health and other services

The Slovak Government is aware of existing shortcomings in Slovak legislation including those laws regulating the system of social benefits. An extensive social reform is currently under way in Slovakia, which has also tackled allocation of welfare benefits. The new law on material hardship has been recently approved by the Slovak Parliament and will take effect on 1 January 2004. It replaces the definition of material hardship for “subjective” or “objective “ reasons and changes the system of social benefits based on a philosophy of “punishment” to a system of a philosophy of “motivation” (it favours those looking for a job actively, improving their professional qualification and skills, etc.).

New developments

Slovakia is a democratic country consistently promoting and protecting human rights including the rights of persons belonging to national minorities. Any reports on breaches of these rights are reason for a serious concern. After publishing “Body and Soul” report the Slovak Government immediately started a thorough and impartial investigation using all lawful mechanisms. An independent district prosecutor overviewed a criminal investigation led by a carefully established team of investigators. The Prosecution General of the Slovak Republic was also involved. Because of a social seriousness of allegations contained in the report the criminal investigation was led into a crime of genocide. A parallel investigation in form of an expert control in hospitals was also held under a supervision of the Ministry of Health of the Slovak Republic. None of these investigations has confirmed a legitimacy of allegations published in the “Body and Soul” Report. The criminal investigation was closed on 24 October 2003 proving that no crime of genocide had been committed in Slovakia. However, both investigations disclosed several shortcomings in Slovak medical legislation and in some cases also procedural mistakes of particular doctors and medical facilities concerning the issue of informed consent.

The Slovak Government acknowledges a need of improvement of stamped weaknesses. It took note of the report on a development in case of forced sterilizations and measures taken on 29 October 2003. Furthermore the Government approved the Statement concerning the issue of sterilizations and related Resolution in which the Plenipotentiary for Roma Communities and relevant ministries are instructed to take specific measures. These measures concern amending different laws and drawing consequences in cases of

procedural mistakes. They also emphasize evaluation of the access of marginalized groups to health-care and apply to some aspects of human rights education and awareness. A noteworthy fact is that the Ministry of Health of the Slovak Republic was instructed to carry out an in-depth inspection and analysis at all healthcare establishments focused not only on examination of the accusation of involuntary sterilizations but also on identification of discriminatory practices against members of the Roma minority. It should also concentrate on the observance of procedures for obtaining voluntary and informed consent of patients.

Constitutional provisions and other basic provisions

As far as the implementation of the European Charter of Regional or Minority Languages is concerned the Slovak Republic does not consider a current level of implementation of the Charter in Slovakia to be the final stage. Pursuant to the conclusions of the Committee of Experts and in terms of the decision of the Committee of Ministers of the Council of Europe, which will be due after evaluation of the first report on implementation of the Charter in Slovakia, the Slovak Government is prepared to take adequate measures if necessary.

Ratifying the European Charter of Regional or Minority Languages the Slovak Republic accepted 49 provisions for Roma language. The right to education in mother tongue for persons belonging to national minorities is also stipulated in the Constitution of the Slovak Republic. It is nevertheless difficult to secure using this right for the Roma minority in a short time perspective, mainly because of lack of qualified teachers and also because of the fact that Roma language has not been yet codified. For a horizon of 2004 - 2010 the Ministry of Education of the Slovak Republic has been instructed to ensure a preparation of a sufficient number of qualified teachers and to create, using the principle of affirmative action, a conception of integrated education for Roma children and youth.

Bratislava, November 14th 2003