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SECOND REPORT ON HUNGARY

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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Hungary is dated 7 June 1996 (published in September 1997). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Hungary took place on 14-16 April 1999. During this visit, the rapporteurs met with representatives of the various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Hungarian national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation and the Hungarian national liaison officer, whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

ECRI would also like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 18 June 1999 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Over recent years, Hungary has made considerable progress in addressing issues related to racism, xenophobia, antisemitism and intolerance. Alongside a wide ratification of relevant international legal instruments, it has started to improve domestic legislation in the area: its constitutional provisions guaranteeing certain rights to national and ethnic minorities are of particular interest in this respect. Moreover, there is a growing acknowledgement of the problems of racism and discrimination which exist in Hungary, particularly towards the Roma/Gypsy community. A strong civil society and the creation of public bodies such as the Parliamentary Commissioner for National and Ethnic Minorities have proved particularly valuable in drawing attention to these issues.

Nevertheless, severe problems of racism and intolerance continue in Hungary. Of especial concern is the incidence of discrimination towards members of the Roma/Gypsy community in all fields of life, including the administration of justice and access to equal opportunities in areas such as education and employment. Police ill-treatment of members of this group continues to occur. The situation of non-citizens in Hungary, given new patterns of migration, also calls for attention. Furthermore, although the membership of neo-Nazi and extreme-right wing parties is at present relatively limited, care needs to be taken to counter any expressions of intolerance or antisemitism in political discourse and public debate.

In the following report, ECRI recommends to the Hungarian authorities that further action be taken to combat racism, xenophobia, antisemitism and intolerance in a number of areas. These recommendations cover, inter alia, the need to ensure that anti-discrimination legislation is fully implemented; the need to take firmer action against police misconduct and failures in the administration of justice; the need to take a range of steps to combat discrimination and racism against the Roma/Gypsy community (in particular in the fields of education and employment); and the need to improve the situation of some groups of non-citizens living in Hungary.

SECTION I : OVERVIEW OF THE SITUATION

A. International legal instruments

1. ECRI welcomes Hungary's wide ratification of international legal instruments of relevance to the fight against racism and intolerance. It notes in particular that Hungary was one of the first member States of the Council of Europe to sign and ratify the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, and that extensive domestic legislation has been adopted to implement the international commitments undertaken by Hungary in these fields.
2. ECRI encourages the Hungarian authorities to ratify the Revised European Social Charter. It also encourages Hungary to sign and ratify the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.

B. Constitutional provisions and other basic provisions

3. The Constitution of Hungary contains several provisions which guarantee freedom from discrimination as well as protection and promotion of the rights of national and ethnic minorities.
4. ECRI notes with particular interest legislation guaranteeing the collective participation of minority groups in public life (Article 68) and providing for the establishment of local and national self-government for national and ethnic minorities. This legislation, and the situation of national minorities in general, is supported by the activities of the Bureau for National and Ethnic Minorities. ECRI is aware that some problems have been experienced in the functioning and financing of this system of self-government, and encourages the authorities to closely monitor its implementation and effectiveness and to make any necessary changes in close collaboration with the communities concerned.

C. Criminal law provisions

5. Article 174/B of the Criminal Code punishes violence against a member of any national, ethnic or religious group: this provision was adopted in 1996 to complement the offence of genocide. The offence may consist of acts of violence, cruelty, or coercion by threats, perpetrated because of the victim's membership or supposed membership of a national, ethnic or religious group. This provision was used for the first time by the Hungarian courts in a decision of 1998 (Heves County Court, Bf 66/1998/4).

6. In its first report on Hungary, ECRI expressed concern that the response given to racial violence was not sufficient and that law enforcement officials did not always behave in a proper manner. It is reported that the authorities have as a rule been unwilling to admit the racial or antisemitic motivation of attacks¹. Such attacks are infrequently prosecuted, or are not prosecuted as racial attacks.
7. Given the extent of racially-motivated violence and threats in Hungary, particularly directed against members of the Roma/Gypsy community, but also targeting non-citizens, ECRI feels that a more vigorous implementation of the relevant criminal law provision is called for.
8. ECRI notes with interest programmes which have been set up with the collaboration of NGOs to train relevant public officials, such as judges and police, as was recommended in its first report on Hungary. The continuation and further development of such programmes for all persons working within the law enforcement system (police, public prosecutors, judges, etc) would be most desirable, with a view to combating prejudices and raising awareness.
9. ECRI feels, moreover, that supplementary measures are still called for to improve implementation of legislation, including more public awareness-raising concerning the prohibition of racial violence or threats. A particular obstacle is a lack of confidence on the part of victims in the possibilities of obtaining redress, particularly since, regrettably, the police themselves are often implicated in violent or threatening acts against members of certain minority groups (notably members of the Roma/Gypsy community)². ECRI therefore stresses that special attention should be paid to encouraging and assisting victims to come forward and bring complaints. Measures might include for example the appointment of more police officers from minority groups, the appointment of officials with particular responsibility for receiving complaints in confidence, and a public and firm commitment at the highest level – on the part of politicians and the authorities responsible - to prosecuting such forms of racism.
10. Moreover, ECRI recommends that the authorities closely monitor the application of criminal law in this field through the collection and publication of data on the number of offences reported to the police, the number of cases prosecuted, the reasons for non-prosecution and on the outcome of cases prosecuted. In particular, the police should be instructed to consider as a matter of course whether cases of violence are of a racist nature and to class them as such, rather than simply to class such cases as physical injury as is now often the practice.

¹ See, *inter alia*, report by the International Helsinki Federation for Human Rights to the OSCE Implementation Meeting on Human Dimension Issues, Warsaw 1997, and report "Rights Denied: the Roma of Hungary", published by Human Rights Watch.

² See, *inter alia*, report "Rights Denied: the Roma of Hungary", published by Human Rights Watch.

11. ECRI furthermore feels that the criminal law provisions in the field of combating racism and intolerance should be further extended to cover areas such as racist expressions, both oral, written, audio-visual and electronic (i.e. racial insult or defamation).

D. Civil and administrative law provisions

12. Some provisions do exist in civil and administrative law to combat discrimination: for example, an Article in the Labour Code (Article 5) establishes that, in offering employment and in defining the rights and duties arising from employment, no employee shall be discriminated against on account of, *inter alia*, sex, age, nationality, race, social origin and religion. Act IV of 1991 provides that, in matters concerning employment and assistance to the unemployed, distinctions between individuals on the above-mentioned grounds are prohibited. A recent amendment in the procedural rules of civil courts, enacted on 1 January 1999, has improved the legislative protection offered since it allows for claims introduced during negotiations prior to the signing of a contract to be presented to a labour court (i.e. it covers discrimination during the process of recruitment).
13. ECRI notes that the desirability of introducing a comprehensive body of anti-discrimination legislation, covering all fields of life, has been widely discussed in Hungary and that such a move is supported by, *inter alia*, the Parliamentary Commissioner for National and Ethnic Minorities and several non-governmental organisations. While stressing that the first priority should be the full implementation of already-existing legal provisions to combat discrimination, it is ECRI's opinion that the introduction of a body of anti-discrimination law covering all fields of life should be seriously considered by the Hungarian authorities as a possible way of improving the legislative framework in this field.

E. Administration of Justice

14. ECRI is concerned at evidence that severe problems in the administration of justice exist as regards discrimination against members of the Roma/Gypsy community and non-citizens. There are authoritative reports that Roma/Gypsies are kept in pre-trial detention for longer periods and more frequently than non-Roma, although the prohibition of the recording of the ethnic origin of suspects makes it difficult to evaluate the extent of such discrimination. It is also reported that persons in community shelters are usually held in custody until their trial to prevent them from leaving the country.

15. ECRI feels that the authorities should evaluate the extent to which discrimination in the administration of justice as regards Roma/Gypsies occurs and should take steps to discourage discriminatory treatment. Police officials at all levels should be given clear instructions and training to ensure equal treatment of all groups in society, and complaints of irregular or discriminatory treatment of suspects in custody should be rigorously investigated.
16. ECRI also stresses that non-citizens should be granted the same rights as citizens as regards conditions for pre-trial detention.

F. Police ill-treatment and discrimination of minority groups

17. ECRI wishes to express its deep concern at the continuation of police discrimination and ill-treatment of members of the Roma/Gypsy community in particular, and also practices which discriminate against non-citizens (such as entry into private residences of non-citizens without search warrants). The Ministry of the Interior and the leadership of the police force have publicly condemned police brutality on several occasions and promised to prosecute such abuses, and a special chapter on the police is contained in the 1999 renewed mid-term action programme to improve the situation of Roma/Gypsies. However, despite these positive actions on a political level, and a developing co-operation between the police and Roma representatives, discrimination on a daily basis appears to continue.
18. The four Parliamentary Commissioners filed a joint petition in 1997 to the Constitutional Court concerning the question of whether the parliamentary commissioners also have the right to investigate alleged irregularities in prosecutions: this petition was withdrawn without solving the problem. In ECRI's opinion, it would be most desirable that the parliamentary commissioners be given powers to investigate alleged irregularities in prosecutions and allegations of police misconduct and ill-treatment of detainees. Once investigations are completed, the perpetrators of such crimes should be properly punished and where necessary removed from their functions.
19. Methods should also be developed to encourage victims to come forward with complaints, since they often – apparently with some justification - lack confidence in the possibility of redress and fear further reprisals. First and foremost, it should be made clear publicly and at a high level that incidents of police ill-treatment of members of minority groups will be thoroughly investigated and punished. Although the Parliamentary Ombudsman notes in his report for 1998 that courts are today more willing to deal with cases of alleged police ill-treatment, further efforts might be made to ensure that prosecutors and judges are taking appropriate action throughout the country. Legal aid should be provided to assist Roma/Gypsies in bringing cases. Furthermore, in order to ensure increased recruitment of police officers from among members of minority groups, particularly Roma/Gypsies, further

assistance should be provided to members of such groups to enable them to fulfil the entry requirements for such posts. ECRI also encourages strengthened confidence-building measures to improve relations between the police and the Roma/Gypsy community.

20. In its first report on Hungary, ECRI highlighted the need to improve training programmes for police officers and other officials responsible for dealing with non-citizens and members of minority groups. It welcomes the fact that courses on the Roma/Gypsy community have been introduced at the Police Academy as part of the basic training and that projects have been launched to foster regular co-operation between the police and local minority self-governments. Nevertheless, ECRI feels that more training initiatives are vital at all levels of the police force, and as part of in-service training as well as initial training. Such courses should focus on the traditional minority groups living in Hungary and vulnerable to abuses, but should also cover the situation and rights of non-citizens.

G. Access to public services

21. Again, it is the Roma/Gypsy community which is particularly disadvantaged and discriminated against in access to public services such as health care, welfare and housing. It is noteworthy that of all the cases investigated by the Parliamentary Commissioner for National and Ethnic Minorities over the period July 1995 to December 1997, almost 40% involved alleged abuses by local governments.
22. Despite the fact that only about 14% of Roma/Gypsies live in separate Roma/Gypsy communities, about one third of Roma/Gypsies live in neighbourhoods with exclusively or almost exclusively Roma/Gypsy residents. One of the reasons for such segregation is the practice on the part of some local authorities of evicting Roma/Gypsies from apartments where they have been unable to pay electricity bills or rents from the welfare benefits on which they rely. If the evicted families cannot find other lodgings, their children are usually placed in State care. Cases over recent years have shown that some local authorities' attempts to evict Roma/Gypsies are underpinned by prejudice and racism among officials, including elected officials. ECRI stresses that such forms of discrimination practised by local authorities should not be tolerated by the national authorities. In this respect, it is particularly important to ensure that national policies and legislation against discrimination are understood and applied at a local level. Training for officials working within local administrations, to raise awareness and combat prejudices, is also called for.

H. Expressions of xenophobia, racism and antisemitism

23. Although not very widespread, overt neo-Nazi groups and activities do exist in Hungary. Some concerns have been expressed that neo-Nazi activities such as demonstrations, which are not prohibited as such, are perhaps dealt with in too liberal a fashion by the police and prosecuting authorities. In this respect, ECRI recalls that it recommended to member States in its General Policy Recommendation N° 1 to “take measures, including where necessary legal measures, to combat racist organisations ... including banning such organisations where it is considered that this would contribute to the struggle against racism”. It may be the case that a more precise definition of what is or is not permissible in Hungary in this respect is called for.
24. ECRI notes that there are currently elements in Parliament which utilise overtly nationalistic discourses, including some “coded” antisemitic or xenophobic expressions, and that a certain latent antisemitism also exists in some sectors of the media and in some sectors of society. ECRI stresses that shifts towards extremism in political discourse – even if these initially appear fairly minor - can pose a threat to democracy and to the general tone of political and public debate.

I. Specialised bodies and other institutions

25. In its General Policy Recommendation N° 2, ECRI stresses the important role played by specialised bodies such as commissions or ombudsmen, in combating racism and discrimination and promoting equality of opportunity for all groups in society. In its first report on Hungary, ECRI welcomed the nomination of the Parliamentary Ombudsman for National and Ethnic Minorities in Hungary, and would like to reiterate its support for this mechanism, which is today very active in addressing the problems faced by minority groups in Hungary. ECRI urges the Hungarian authorities to continue to take appropriate action on the observations and proposals made by the Parliamentary Commissioner in the field of legislation and policy. ECRI also considers that given the success and good reputation of the post of Parliamentary Ombudsman for National and Ethnic Minorities, the role, powers and functions of this body could usefully be extended further, for example by granting the Ombudsman the possibility of bringing cases before administrative courts or by widening its powers to bring cases before the courts.

J. Monitoring the situation

26. While acknowledging the fact that the collection and utilisation of data on ethnic origin is restricted in Hungary for valid reasons, ECRI is concerned that the lack of reliable information about the situation of the various minority groups living in the country makes evaluation of the extent of possible discrimination against them or the effect of actions intended to combat such discrimination difficult. ECRI recommends that the Hungarian authorities might consider ways of monitoring the situation in this respect, with due attention to the need for protection of data and of privacy. For example, carefully-prepared studies which respect the anonymity, dignity and full consent of persons involved may allow the situation in some areas of life to be evaluated.
27. One very positive aspect of the situation in Hungary is the presence of active and experienced bodies of civil society and the fact that an increasing collaboration seems to be developing in many fields between such bodies and the authorities. ECRI encourages the authorities to continue to build upon this co-operation, in order to profit from the knowledge of the situation and the expertise that such bodies possess.

SECTION II: ISSUES OF PARTICULAR CONCERN

28. In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Hungary, ECRI would like to draw attention to the problems of discrimination against Roma/Gypsies in the key fields of education and employment, and to the situation of non-citizens.

K. Discrimination against Roma/Gypsies in the field of education

29. Although the Roma/Gypsy community in Hungary, as in most other countries, faces severe discrimination in almost all fields of social and economic life, ECRI is particularly concerned by evidence of widespread discrimination and disadvantage for this minority group in the field of education, which is one of the corner-stones on which equal participation in society is built.
30. In its General Policy Recommendation N° 3 on combating racism and discrimination against Roma/Gypsies, ECRI recommends that member States “vigorously combat all forms of school segregation towards Roma/Gypsy children”. However, in Hungary at the present time segregated classes for Roma/Gypsy children still exist within the mainstream schools, and, still more alarmingly, Roma/Gypsy children are frequently channelled into special schools or classes for mildly mentally-retarded children. Despite the fact that rules regulating entry to such institutions have been tightened on several

occasions, Roma/Gypsy children still constitute around half the total amount of pupils attending these types of institutions, which offer no opportunity for further study or employment. It is reported that such channelling, which in principle is carried out by an independent board, is often quasi-automatic in the case of Roma/Gypsy children. ECRI feels that the whole system of channelling children into special schools for the mentally-retarded should be overhauled, to ensure that it is non-discriminatory and that the true abilities of each child are properly evaluated.

31. ECRI also recommends in its General Policy Recommendation N° 3 that governments should «ensure the effective enjoyment of equal access to education». This does not at present appear to be the case in Hungary. A high percentage of children from the Roma/Gypsy minority do not participate in kindergarten education, which the Parliamentary Commissioner for National and Ethnic Minorities cites as one of the main reasons for the school failure of Roma/Gypsy pupils³. ECRI urges the Hungarian authorities to investigate the reasons behind this trend, and to take appropriate measures, such as information and incentive campaigns, to improve the attendance of Roma/Gypsy children at kindergarten level. In this respect, ECRI supports the recommendations made by the Parliamentary Commissioner for National and Ethnic Minorities, which have been accepted by the Ministry of Education.
32. A special curriculum exists for Roma/Gypsy pupils to assist them in catching up with their peers in schools. Although it is obligatory for the consent of parents to be sought before applying such special curricula, this rule has not always been respected, and complaints have been filed with the Parliamentary Commissioner for National and Ethnic Minorities by Roma/Gypsy parents implying that parents were not aware of special curricula in which their children were involved. As mentioned above, Roma/Gypsy children are often automatically directed to “remedial schools” without a fair examination of the child or consultation with the parents. ECRI is aware that Hungary has set up structures to involve Roma/Gypsy communities in the decision-making process in various fields of social and political life, and encourages the authorities to ensure that in the field of education in particular, Roma/Gypsy parents are kept fully informed of measures taken and are encouraged to participate in educational decisions affecting their children.
33. Beyond the primary school level, the disadvantaged situation of the Roma/Gypsy community is even more acute. According to the Annual Report for the year 1997 published by the Parliamentary Commissioner for National and Ethnic Minorities, the percentage of the Roma population in elementary schools corresponds to their percentage in the population (around 5%), but decreases at secondary school level to less than 1% and at university level to around 0.1%. ECRI feels that urgent measures are called for to increase the participation of Roma/Gypsy children in education at the secondary and higher

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Cf Annual Report of the Parliamentary Commissioner for National and Ethnic Minority Rights, 1997

level. In particular, the role played by stereotypes and prejudices among teaching staff, which may lead to low expectations and discriminations against Roma/Gypsy children should be investigated, and measures taken to train teachers in this respect. Recruitment of teaching staff from the Roma/Gypsy community might also play a role in improving the situation. Furthermore, ECRI recommends in its general policy recommendation that governments “introduce into the curricula of all schools information on the history and culture of Roma/Gypsies and ... provide training programmes in this subject for teachers”. Such information about the Hungarian Roma/Gypsy community and its history seems to be lacking in schools at the present time. Parallel to focusing on the attitudes of teachers, ECRI thus feels that steps should be taken to counter prejudices and discrimination among children from the majority culture and their parents.

34. Alongside policy measures, ECRI stresses the role of an effective legislative framework in combating discrimination in education, as recommended to governments in its general policy recommendation. It should be ensured that such legislation is made widely-known, particularly at the local level, and that its implementation is closely monitored.

L. Discrimination against Roma/Gypsies in employment

35. A second area of major concern to which ECRI wishes to refer in the context of discrimination against the Roma/Gypsy community in Hungary is in the field of employment.
36. The Roma/Gypsy community in Hungary was particularly hard-hit by the shift to a market economy, as many of the previous State-sponsored employment possibilities collapsed. Until 1989, Roma/Gypsies were employed at rates almost as high as ethnic Hungarians, whereas today at least 60% of working age Roma/Gypsies are unemployed against a national average of around 12-13%⁴. Although some of the differences in employment rates may be due to differences in levels of education and qualifications, ECRI is of the opinion that covert discrimination certainly plays a part: furthermore, differences in skill-levels are also often due to previous discrimination in other fields of life such as access to education.
37. As mentioned above (paragraph 12), Article 5 of the Labour Code prohibits discrimination in offering employment and in defining the rights and duties arising from employment. On the recommendation of the Parliamentary Commissioner for National or Ethnic Minorities, harsher penalties have been introduced for employers who refuse to employ or who discriminate against an employee for reasons of gender, age, nationality, race, etc. It is also

⁴ Cf “Rights denied: The Roma of Hungary”, report by Human Rights Watch, Helsinki, 1996

noteworthy that in cases of labour discrimination, the burden of proof lies with the employer.

38. However, despite the strengthened legislative framework in this field, the Parliamentary Commissioner for National and Ethnic Minorities notes that, to the best of his knowledge, over the period 1997 and 1998 no cases were brought concerning ethnic or racial discrimination in employment. In fact, it does not appear that any cases have as yet been brought on such grounds. ECRI therefore stresses as a matter of priority the need to improve implementation of the existing legislation against discrimination in employment, in particular by informing people of their rights. In parallel with such improved implementation, further consideration should be given to the question of whether a comprehensive body of anti-discrimination legislation covering all fields of life, including employment discrimination, might not assist in raising awareness and facilitating recourse to the courts in cases of labour discrimination.
39. The Hungarian authorities are encouraged to raise awareness among employers and among the general public as regards the legal prohibition of discrimination and the penalties for such discrimination. In particular, members of the Roma/Gypsy community should be made aware of their rights and encouraged and supported in bringing cases concerning unlawful discrimination in employment.
40. The authorities responsible for monitoring and enforcing anti-discrimination legislation, such as the Labour Courts, should also be informed and instructed about the importance of dealing with employment discrimination and of demonstrating its unacceptability through legislative sanctions. In this respect, the functions and powers of the Parliamentary Commissioner for National and Ethnic Minorities might be extended to allow him to investigate complaints, approach employers with the aim of remedying the situation, and where necessary, bring cases to the labour courts.
41. ECRI is also concerned at reports that some employment offices screen applicants based on ethnicity and maintain files noting the ethnicity of Roma/Gypsy clients, despite the fact that the use of ethnic data without the permission of the person in question is prohibited. ECRI feels that such practices should be firmly rejected and repressed by the authorities. Staff working within employment offices should receive training and instructions in this respect and also be instructed to refuse and report any requests from prospective employers which preclude applications from Roma/Gypsy job-seekers.

M. Situation of non-citizens

42. A new law on asylum was adopted in 1997 and came into force in 1998. Before the adoption of this law, Hungary received very few asylum-seekers, although over the past decade many foreigners who had arrived, inter alia, from Romania (mainly ethnic Hungarians), the former Yugoslavia, and Bosnia were granted temporary protection. With the new law, the geographical restriction on asylum-seekers was lifted so that Hungary could accept asylum-seekers from non-European countries. Subsequently, a sharp increase in the number of asylum-seekers was noted: whereas before the adoption of the law, around 150 asylum cases were received each year, between March and December 1998 the number was over 7 000.
43. Understandably, the authorities were not prepared for such a great number of applicants. The Office of Refugee and Migrant Affairs has a total of 27 officials in charge to deal with the suddenly increased number of asylum-requests, which means that although the law stipulates periods of time within which cases and appeals should be dealt with, delays are often inevitable; in this respect, ECRI notes the Government decision to increase the staff of the Office and urges the Hungarian authorities to ensure that the resources allocated to the Office of Refugee and Migrant Affairs are constantly kept to a level commensurate with the new scale of asylum requests in Hungary.
44. Around 6 per cent of asylum seekers are currently granted the status of refugees in accordance with the Geneva Convention. These refugees are granted the same rights as Hungarian citizens except when specific rules apply (for example, military service; national voting rights). A second possibility is the granting of the status of "accepted person". The status of "accepted person" can be granted to persons who, although they are not considered to be refugees according to the Geneva Convention, nevertheless might face the death penalty, torture or other inhuman or degrading treatment if deported. The status of "accepted person" is granted for one year and can be renewed. Such persons do not enjoy similar rights to Hungarian citizens, although they may receive free health care and education is compulsory for their children. People accorded the status of "accepted person" may work if they hold a work permit. No integration measures are provided for this category of persons, and it is not clear what their situation is if their "accepted status" is prolonged over several years. ECRI feels that such issues might be given further consideration by the Hungarian authorities, given that significant numbers of asylum-seekers currently fall into this category.
45. Illegal immigrants who are not granted refugee status fall under the jurisdiction of the police and border guards, although in certain cases the authorisation of the Office for Refugee and Migration Affairs, as an expert authority, is needed for the implementation of the deportation process. A particular problem in Hungary is posed by the conditions in the "community shelters" which are quasi-detention centres for "illegal immigrants" and are

under the jurisdiction of the border police. Foreigners with permission may leave the shelter; however, some categories of persons, including those whose identification can not be established, are not permitted to leave, although at present this practice is not regulated by a legal provision, and it is reported that conditions are far from ideal. ECRI is particularly concerned to learn that children may also be present in such shelters, and that little or no contact exists between guards and detainees. ECRI urges the Hungarian authorities to take steps to improve the conditions in community shelters and to ensure that persons kept in such shelters are treated with humanity and respect by the officials dealing with them: in particular it encourages the introduction of training courses in human rights, cultural awareness and non-discrimination for border guards and those responsible for community shelters. In this respect, ECRI is pleased to note that non-governmental organisations are apparently granted relatively free access to such shelters, and suggests that steps to improve conditions might be taken in co-operation with such bodies.

46. There also appears to be a tendency to equate “illegal immigrants” (including rejected asylum-seekers in community shelters) with criminals or “persons who break the law”, which can have the effect of prejudicing public opinion and generally worsening attitudes towards refugees, asylum-seekers and non-citizens. This tendency is to some extent reflected in the fact that a controversial amendment to the asylum law is part of a package of measures related to the “anti-Mafia law” adopted in June 1999. ECRI stresses that politicians and representatives of the authorities have a responsibility to avoid sending messages to the public that asylum-seekers should be considered as criminals. Although public sympathy towards asylum-seekers has been demonstrated in recent years, the present tendency seems to be towards a hardening of attitudes. In this context, ECRI feels that more public debate on these issues should be encouraged, both in the media and in political discourse, with a view to presenting the situation in a balanced fashion and to countering public ill-feeling and suspicion towards non-citizens.

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

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on Hungary, is dated 18 June 1999, 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 Hungary to engage in a process of confidential dialogue with ECRI on its draft text on Hungary and a number of his comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the national liaison officer expressly requested that the following observations on the part of the authorities of Hungary be reproduced as an appendix to ECRI's report.

OBSERVATIONS PROVIDED BY THE AUTHORITIES OF HUNGARY CONCERNING ECRI'S REPORT ON HUNGARY

1. paragraph 30, third sentence

Despite the fact that rules regulating entry to such institutions have been tightened on several occasions, Roma/Gypsy children still constitute around half the total amount of pupils attending these types of institutions, which offer much less opportunity for further study or employment.

Explanation

Schools for mildly mentally retarded children offer opportunities for further study or employment.

2. paragraph 30, last sentence

ECRI feels that the system of channelling children into special schools for the mentally-retarded should be overhauled, to ensure that it does not make discrimination possible and that the true abilities of each child are properly evaluated.

Explanation

The whole system does not need to be overhauled, only certain parts of it. The full correction of the whole system was carried out about half a year ago, and so far there has not been any valid experience regarding its operation. The system itself is not discriminative, but opportunities for discrimination present themselves in the course of its application.

3. paragraph 31, second sentence should be replaced by the sentence below:

In Hungary - although equal access to education is legally ensured - a number of factors prevent the enforcement of the law.

Explanation

The original sentence does not correspond to the facts. Parents do not only have the right but they are legally obliged to send every 5-year-old child - Roma/Gypsy children included of course - to kindergarten.

4. paragraph 31, third sentence

A part of children from the Roma/Gypsy minority do not participate in kindergarten education...

Explanation

The expression "a high percentage" is not correct because a considerable part of Roma/Gypsy children go to kindergarten. The point is that there are no reliable data on this and at present it is impossible to have or get access to such data.

5. paragraph 32, third sentence

As mentioned above, the examination of Roma/Gypsy children is not always fair, and careful enough, and as a result in many cases they are sent to "remedial" schools even if it is unjustified.

Explanation

It is no more possible to remove a pupil automatically from a "normal" school.

6. Page 15, Point 44

*Such persons do not enjoy similar rights to Hungarian citizens, although they may receive free health care **if necessary, accommodation and board is provided them** and ...*