



CRI (98) 25

European Commission Against Racism and Intolerance

First report on San Marino

Adopted on March 1998

For further information about the work of the European Commission against Racism and Intolerance (ECRI) and about the other activities of the Council of Europe in this field, please contact:

Secretariat of ECRI
Directorate General of Human Rights – DG II
Council of Europe
F - 67075 STRASBOURG Cedex
Tel.: +33 (0) 3 88 41 29 64
Fax: +33 (0) 3 88 41 39 87
E-mail: combat.racism@coe.int

Visit our web site: www.coe.int/ecri

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 ECRI's country-specific reports² were made public in September 1997. A second series of country-specific reports were transmitted to the governments of the countries concerned in January 1998, and are thus now being made public³.

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

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.

³ Reports on Germany, Liechtenstein, Norway, San Marino, Slovenia and Switzerland.

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 second series of reports, for which the procedure was completed by January 1998, 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 SAN MARINO⁴

Introduction

The Republic of San Marino covers an area of just 61 km²: the country does not have any marked internal differentiations and there are no ethnic or linguistic minority groups. Over recent years, the country has begun to experience the phenomenon of immigration, no longer exclusively from neighbouring Italy but from nations further afield, and therefore has had some experience in trying to integrate these people from different ethnic, linguistic, religious and cultural backgrounds into San Marino society. Immigration has not been at a level comparable with other European States however. As a result of the limited work market, a restrictive but non-discriminatory policy governing entry into and sojourns in San Marino is applied. The economic situation in San Marino is not as difficult as in other European States.

Most non-citizens living in San Marino are Italians, who have often been living in the country for a very long time and seem to have no problems of integration. Workers from outside the European Union come for "seasonal" work; other workers are "transfrontier" workers living in Italy and working in San Marino.

It would seem that the situation in San Marino at present as regards the problems of racism and intolerance is not a dangerous one. However, the situation should be monitored to ensure that no problems appear.

⁴ Note: Any development subsequent to 7 February 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. It is felt that San Marino should ratify the following international instruments:
 - The UN Convention on the Elimination of All Forms of Racial Discrimination;
 - The UNESCO Convention against Discrimination in Education;
 - The European Social Charter;
 - The European Charter of Regional or Minority Languages.

Although it is understood that the absence of manifestations of intolerance or discrimination in San Marino may be felt to render the ratification of these instruments non-urgent, it is nevertheless pointed out that ratification of such instruments is both a matter of principle and of solidarity with other European States.

B. Constitutional provisions

2. The 1974 "Declaration of Rights" approved by ordinary law, enshrines principles with which judges must comply when interpreting and enforcing laws, and officially recognises that "all are equal before the law, regardless of personal, economic, social, political or religious conditions". It is therefore a clear and non-equivocal statement of the principle of non-discrimination which both the legislation and the courts are bound to respect. However, Declaration makes no explicit reference to racial or ethnic discrimination, probably due to the present feeling that no problems exist in this respect.

C. Criminal law provisions

3. No criminal law provisions exist in San Marino to combat racism and discrimination. ECRI points out that even if no discrimination or racism presently occurs, legislation may have a significant deterrent and educative effect. San Marino is encouraged to identify solutions suited to its own particular circumstances to provide adequate legal protection against discrimination and racism.

D. Civil and administrative law provisions

4. There seems to be very little legislation dealing expressly with racial discrimination, although some civil and administrative provisions do make reference to this type of discrimination. The authorities of San Marino might consider whether more precautionary and preventive measures are necessary.

⁵ A full overview of the legislation existing in San Marino 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).

II POLICY ASPECTS

E. Education and training

5. Education plays an important role in teaching tolerance and respect to young people who may be influenced by events and trends taking place elsewhere. Article 1 of Law N° 60 of 1980 on the education system lays down that "No distinction shall be made within the school system on grounds such as race, sex, language, religion and political opinions". This provision applies to all individuals working in schools (teachers, students, administrative staff, etc. and, as a consequence, also to the students' families. All educative policies, pursued at all levels of education, must comply to this principle. Furthermore, the 1996/97 teaching syllabus provided that all primary schools in San Marino must commit themselves to implementing educational projects entitled "Teaching Interculture in Primary Schools". According to the programmes prepared by the heads of primary schools, the aim of these projects is to educate the youngest generations to promote the correct integration of the increasing number of foreign residents and people who have acquired San Marino citizenship and have a different culture, religion and language or belong to a different ethnic group.

ECRI welcomes this recognition by the San Marino authorities that education is a important means of preventing problems of racism and discrimination from developing.

F. Monitoring the situation

6. All official sources state that no problems of racism and discrimination exist in San Marino. One possible way in which the authorities might monitor the situation would be to conduct a survey or opinion poll among the San Marino citizens to ascertain whether any underlying intolerance does in fact exist even if no incidents have been reported. Furthermore, non-citizens (immigrants, refugees, asylum-seekers, etc.) might also be asked about their experience of living in San Marino, as some forms of discrimination may exist which are not reported.

G. Media

7. ECRI shares the opinion of the San Marino authorities that, given the present situation in San Marino, education and awareness-raising may be more important than legislation in preventing problems of racism and intolerance from developing. In this respect, it is noted that awareness-raising campaigns may be successfully transmitted via the mass media.

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 authorities of San Marino on 13 July 1994.

ECRI accepts no responsibility for the data below.

3 226 non-citizens residing in San Marino, of which 3 096 are Italian citizens

826 owners of residence permits (non-residents), of which 702 are Italian citizens

Population: 25 058 (end of 1995). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)

BIBLIOGRAPHY

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

1. Reply to the ECRI questionnaire supplied by the authorities of San Marino
2. CRI (94) 2 and Addendum: Situation in the member States of the Council of Europe concerning the issues under examination by the European Commission against Racism and Intolerance: Working Papers submitted by the members of ECRI, Council of Europe document
3. Recent demographic developments in Europe, Council of Europe Press, 1994
4. CDMG (94) 16 Final: Recent developments in policies relating to migration and migrants, Council of Europe document
5. Trends in International Migration: Annual Report 1993, OECD, 1994
6. CRI (95) 2 rev.: Legal measures to combat racism and intolerance in the member States of the Council of Europe, Council of Europe publication
7. "Country Reports on Human Rights Practices for 1994", US Department of State, 1995
8. "Country Reports on Human Rights Practices for 1995", US Department of State, 1996