

European Commission
against Racism and Intolerance

ECRI
Commission européenne
contre le racisme et l'intolérance

COUNCIL OF EUROPE



CRI(2018)18

ECRI REPORT ON LIECHTENSTEIN

(fifth monitoring cycle)

Adopted on 22 March 2018

Published on 15 May 2018

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TABLE OF CONTENTS

FOREWORD	7
SUMMARY	9
FINDINGS AND RECOMMENDATIONS	11
I. COMMON TOPICS	11
1. LEGISLATION AGAINST RACISM AND RACIAL DISCRIMINATION	11
- PROTOCOL No. 12 TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS.....	11
- CRIMINAL LAW	11
- CIVIL AND ADMINISTRATIVE LAW	12
- SPECIALISED NATIONAL BODIES.....	13
2. HATE SPEECH	14
- EXTENT OF THE PHENOMENON	14
- RESPONSES TO HATE SPEECH.....	16
3. RACIST AND HOMO/TRANSPHOBIC VIOLENCE	17
4. INTEGRATION POLICIES	17
- DATA	17
- MIGRANTS	18
- RELIGIOUS MINORITIES	22
II. TOPICS SPECIFIC TO LIECHTENSTEIN	23
1. INTERIM FOLLOW-UP RECOMMENDATIONS OF THE FOURTH CYCLE	23
2. EFFECTIVENESS OF THE ASSOCIATION FOR HUMAN RIGHTS (VMR).....	24
3. POLICIES TO COMBAT DISCRIMINATION AND INTOLERANCE VIS-A-VIS LGBT ...	25
- DATA	25
- LEGISLATIVE ISSUES	25
- PROMOTING TOLERANCE AND COMBATING DISCRIMINATION.....	26
INTERIM FOLLOW-UP RECOMMENDATIONS	29
LIST OF RECOMMENDATIONS	31
BIBLIOGRAPHY	33

FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, and those of the fourth round in the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. Except where expressly indicated, it covers the situation up to 6 December 2017; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fourth report on Liechtenstein on 5 December 2012, progress has been made in a number of fields.

Liechtenstein reinforced its criminal law provisions against racism and intolerance in 2016, which now cover all grounds falling under ECRI's mandate. A national specialised body for combating racism and racial discrimination (the Association for Human Rights in Liechtenstein) was set up and started its work in 2017. It has the mandate to examine complaints and to participate in judicial and administrative proceedings on violations of human rights on the part of all authorities.

Politicians, other public figures and the press as such almost never use hate speech. The press has made self-regulation and awareness-raising efforts to prevent hate speech. Thanks to successful activities of the authorities, right-wing extremist groups have stopped their activities in Liechtenstein and spread significantly less hate speech. Only one violent racist or homo/transphobic incident was reported over the last five years.

Foreigners living in the country for a long time are not obliged to conclude integration agreements. Responsibilities for integration measures have been clearly distributed between the Office for Social Affairs and the Foreigners and Passports Office. Foreigners are allowed to participate in the work of certain commissions at the state and municipal levels. Additional measures were taken to improve the German language skills of migrant children in kindergartens and primary schools. A comprehensive study on Islam in Liechtenstein was published in 2017.

Attitudes towards LGBT people have significantly improved and in many areas registered same-sex couples have the same rights as married heterosexual couples. The Association for Human Rights is also mandated with protecting LGBT people.

ECRI welcomes these positive developments in Liechtenstein. However, despite the progress achieved, some issues give rise to concern.

Liechtenstein has not ratified Protocol No. 12 to the European Convention on Human Rights. Some gaps remain in the criminal law provisions and comprehensive anti-discrimination legislation is lacking with respect to the grounds falling under ECRI's mandate. The new specialised body does not have the competence to bring cases of individual and structural discrimination or intolerance in its own name before courts. It also has limited financial and human resources to fulfil all parts of its broad mandate.

Hate speech is used against migrants, Muslims, foreigners and LGBT persons in readers' letters published in press and on Internet fora, together with antisemitic cyber hatred. There is no specific regulatory body dealing with hate speech in the media and Liechtenstein has not ratified the Additional Protocol to the Convention on Cybercrime.

Foreigners' access to citizenship is considerably restricted and foreigners do not have voting rights, even at the local level. In the lower-tier secondary school, the rate of children with migration backgrounds is still very high and their school results are significantly lower than those of the other pupils. The unemployment rate of foreigners is twice as high as that of Liechtenstein nationals. The action plan on integration covering the years 2011 to 2013 did not contain integration indicators to measure the results of its implementation and its outcome was not evaluated. No new action plan on integration was adopted since 2014.

While the Roman Catholic Church receives considerable financial support from the authorities, the Protestant Reformed Church only receives a very small financial contribution. All religious groups except the Roman Catholic Church have to organise themselves as associations and seek their own funding. Muslim communities have difficulties in finding appropriate premises for practising their religion and there is no Muslim burial site in the country.

LGBT persons face prejudice in schools and discrimination in employment and housing. There is lack of recent data on the living conditions of LGBT people and on discrimination they may face.

In this report, ECRI requests that the authorities take action in a number of areas; in this context, it makes a series of recommendations, including the following.

Liechtenstein should ratify Protocol No. 12 to the European Convention on Human Rights. The authorities should bring the criminal law in line with ECRI's standards, and enact comprehensive anti-discrimination legislation. The new specialised body should be given the right to bring cases of discrimination in its own name before courts and institutions. It should also be provided with sufficient funding and staffing to implement all its functions with real impact.

The authorities should reinforce their responses against hate speech, notably by organising awareness-raising campaigns, encouraging counter-speech, supporting self-regulation initiatives of the media and ratifying the Additional Protocol to the Convention on Cybercrime.

The authorities should ease migrants' access to nationality, and enhance their political participation at the state and local levels. They should also abolish any discriminatory regulations and practices in matters of religion, and help Muslim communities to find adequate prayer rooms and to set up a Muslim burial site.

The authorities should commission a study on the problems faced by LGBT people and on the measures to remedy these problems.* They should also commission a study on the problems faced by different groups of migrants and develop a new strategy and action plan for their integration, which should contain indicators and target values. The authorities should regularly assess the implementation of the strategy.* The new action plan should notably include measures to further improve the German language skills of children with other mother tongues than German during their preschool and primary school education, and to increase their enrolment rate in the middle- and upper-tier secondary schools. The authorities should reach agreements with the employers about their contribution to this action plan.

* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Common topics

1. Legislation against racism¹ and racial discrimination²

- Protocol No. 12 to the European Convention on Human Rights

1. Liechtenstein has signed, but still not ratified Protocol No. 12 to the European Convention on Human Rights (ECHR), which was adopted on 4 November 2000. In previous monitoring cycles the authorities had stated that they would like to have the scope of the Protocol clarified prior to any ratification (See ECRI's fourth report § 3). During the country visit, the authorities stated that there are no current plans to ratify Protocol No. 12.
2. ECRI considers ratification of this instrument, which provides for a general prohibition of discrimination, to be vital in combating racism and racial discrimination. Concerning the scope of Protocol No. 12, the European Court of Human Rights has repeatedly stated that it does not see any reason to depart, in the context of Article 1 of Protocol No. 12, from its settled interpretation of the notion of discrimination as per Article 14 of the ECHR.³ The adoption by Liechtenstein of comprehensive legislation against racial discrimination as recommended in § 14 of this report would facilitate the ratification of the Protocol.
3. ECRI reiterates its recommendation that Liechtenstein ratify Protocol No. 12 to the European Convention on Human Rights.

- Criminal law

4. ECRI has already examined on four occasions whether Liechtenstein legislation is in line with its General Policy Recommendation (GPR) No. 7 on national legislation against racism and racial discrimination. Therefore, in this fifth report it will only address persistent shortcomings.
5. In its fourth report (§ 19) ECRI recommended that the grounds of language and citizenship be included in Article 283 of the Criminal Code (CC), which prohibits a range of racist acts. ECRI welcomes that the criminal protection against racist offences was reinforced through amendments made in 2016, and that the aforementioned recommendation was implemented through these amendments. At the same time, public incitement to hatred or discrimination on the grounds of race, language, nationality, ethnicity, religion or belief, sex or sexual orientation and other grounds became a criminal offence under Article 283.1.1 CC and incitement to violence is punishable under Article 282.1 CC, as recommended in § 18a of GPR No. 7. The refusal to offer a service intended for the general public to a person or group of persons on these grounds now also constitutes a criminal offence.⁴ While the amended text does not explicitly mention the ground of gender identity, the Explanatory Report clarifies that the term "gender" shall also cover gender identity and protect intersex persons.⁵
6. Insults, defamation and threats are punishable under Articles 115, 111, 112 and 117 CC. Taken together with Article 33.5 CC on aggravating circumstances, this

¹ According to ECRI's General Policy Recommendation (GPR) No.7, "racism" shall mean the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.

² According to GPR No. 7 "racial discrimination" shall mean any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

³ *Maktouf and Damjanović v. Bosnia and Herzegovina*, Nos. 2312/08 and 34179/08, 18 July 2013, § 81; see also the explanatory report to Protocol No. 12, in particular §§ 24-28.

⁴ UN, Human Rights Committee 2017a: 3-4.

⁵ Landtag 2015, Motion number 66/2015 submitted to the Parliament: 28.

is in line with § 18b and c of GPR No. 7, according to which racist insults, defamation and threats should be punishable. In line with GPR No. 7 § 18e, Article 283.1.5 CC criminalises the public denial, grossly trivialisation or justification of genocide or other crimes against humanity; however war crimes are not expressly mentioned. Article 283.1.7 CC makes it a criminal offence to participate in an association which promotes or encourages discrimination. This provision is however not fully in line with § 18g of GPR No. 7, according to which the creation, leadership of and participation in all groups promoting racism should be punishable, also if they intend to commit other racist offences than incitement to hatred.⁶

7. ECRI recommends that the Liechtenstein authorities bring their criminal law, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should (i) criminalise the public denial, trivialisation, justification or condoning, with a racist aim, of war crimes, and (ii) prohibit the creation and leadership of all racist groups that promote racism with the intention of contributing to racist offences.

- **Civil and administrative law**

8. In its fourth report (§ 33), ECRI strongly recommended that the Liechtenstein authorities introduce comprehensive anti-discrimination legislation. ECRI takes note that Article 31.1 of the Constitution enshrines, as recommended in § 2 of GPR No. 7, the principle of equality of all citizens - without specifying any grounds - and thus prohibits discrimination. In a judgment delivered in 2014 (2014/146), the Constitutional Court held that under settled case law, the principle of equality set out in Article 31.1 of the Constitution also applies to foreigners, despite the reservation of reciprocity set out in Article 31.3.⁷
9. Furthermore, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), containing the prohibition of all forms of racial discrimination in its Article 5.1, entered into force with regard to Liechtenstein on 31 March 2000 (cf. §§ 4 to 8 of GPR No. 7). Pursuant to Article 14.2 of ICERD, the Constitutional Court⁸ was designated as the competent body to receive and consider petitions from individuals and groups of individuals who claim to be victims of a violation of any of the rights set forth in the ICERD (Article 15.2.c of the Law on the Constitutional Court). However, in practice, there has not been any discrimination case in which an individual invoked the ICERD directly. Article 14 of the ECHR is also directly applicable and in line with the settled case law of the Constitutional Court holds a constitutional status. Thus, Article 14 of the ECHR could also be used for bringing anti-discrimination cases before domestic courts, but in practice this has never been done.
10. ECRI has received no information indicating that Liechtenstein legislation places public authorities under a duty to ensure that those parties, to whom they award contracts, loans, grants or other benefits, respect and positively promote a policy of non-discrimination, as recommended in § 9 of GPR No. 7.⁹ According to § 879 of the General Civil Code, any contract that violates a legal prohibition or public morality is null and void (§ 14 of GPR No. 7). The law should furthermore provide for the possibility of dissolution of organisations which promote racism (§ 17 of GPR No. 7). Article 4b of the ICERD and Article 124.1 of the Law on Persons and Companies are in line with this recommendation.

⁶ According to the authorities, leadership or creation of a racist group can however lead to an aggravation of the penalty (Articles 32 and 33 CC).

⁷ For this and the following paragraph see Marxer W. & Hornich P. 2016: 33 and 83.

⁸ Staatsgerichtshof, <http://www.stgh.li/englisch/default.asp>, accessed on 22.02.2018.

⁹ See the 1988 Act on Public Procurement.

11. The authorities are of the opinion that the aforementioned provisions offer a comprehensive protection from discrimination and that no further legislation is needed.¹⁰ ECRI, however, notes with concern that under the existing texts only a very small number of victims of racial, homo- and transphobic discrimination bring their cases to the courts.¹¹ The vague and non-dissuasive nature of these general provisions, the burden of proof, fear and lack of information could be the factors that prevent victims from enforcing their rights. The resulting lack of case law concerning the discrimination grounds falling under ECRI's mandate illustrates the deficiencies in the existing framework for the protection against racial, homo- and transphobic discrimination.¹²
12. Against this background, ECRI finds it positive that the authorities have already enacted comprehensive anti-discrimination legislation with regard to the grounds of gender and disability. During the country visit, ECRI noted that the Liechtenstein authorities often take inspiration from the legislation in the neighbouring countries. ECRI encourages the Liechtenstein authorities to follow the trend in these countries with regard to the enactment of comprehensive anti-discrimination legislation also. Two of these countries, Germany and Austria, have already enacted comprehensive legislation covering the grounds falling under ECRI's mandate.
13. Such a comprehensive anti-discrimination law covering various grounds should clearly define and expressly prohibit direct and indirect racial discrimination, cover the grounds of race, colour, language, religion, citizenship, national and ethnic origin, sexual orientation and gender identity, apply to all public authorities as well as to all natural and legal persons, both in the public and in the private sector, in all areas. The law should also provide for easily accessible judicial and/or administrative proceedings, including conciliation procedures, contain rules on the sharing of the burden of proof and provide for effective, proportionate and dissuasive sanctions including the payment of compensation (§§ 4-17 of GPR No. 7).
14. ECRI reiterates its recommendation that the Liechtenstein authorities enact comprehensive anti-discrimination legislation in line with §§ 4-17 of its General Policy Recommendation No. 7.

- **Specialised national bodies**¹³

15. In its fourth report (§ 41) ECRI recommended that the Liechtenstein authorities designate a national specialised body for combating racism and racial discrimination. ECRI is pleased to note that the authorities have implemented this recommendation by the Law on the Establishment of the Association for Human Rights in Liechtenstein, which entered into force on 1 January 2017. The Association for Human Rights in Liechtenstein (VMR) assumes the responsibilities and advisory services of the former Commission of Equality between Women and Men, the former Integration Commission and the former Commission for Equal Opportunity. The government also incorporated the

¹⁰ UN, Human Rights Committee 2017a: 3-4.

¹¹ Unfortunately, there is no up-to-date study on the extent of discrimination in Liechtenstein (cf. in this respect the interim follow-up recommendation made in § 40 of this report). However, sources like Marxer, W., et al. 2017c: 86 et seq. and information from civil society indicate that discrimination occurs relatively frequently.

¹² Marxer W. & Hornich P. 2016: 12.

¹³ Independent authorities expressly entrusted with the fight against racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as ethnic origin, colour, citizenship, religion and language (racial discrimination), at national level.

independent services of the Equal Opportunities' Office and the duties of the Ombudsman for Children and Youth into the VMR.¹⁴

16. According to Article 1.1 of the aforementioned law, the VMR is the national human rights authority as defined in the Paris principles, and it is tasked with combating racism and racial discrimination at national level, as recommended in ECRI's GPR No. 2 and § 24 of ECRI's GPR No. 7. The independence and accountability of the VMR, including its political and financial independence, are guaranteed under Articles 3 and 13 of the Law, in line with Principles 1 and 5 of ECRI's GPR No. 2 and § 24 of GPR No. 7. The budget and staffing of the VMR is dealt with under §§ 66 and 67 of this report.
17. According to Article 4.1 of the law, the VMR is mandated with the protection and promotion of human rights, in line with Principle 3a of GPR No. 2. According to Article 4.2.E of the law, the VMR provides opinions on draft laws, regulations and on the ratification of international conventions, to the extent that these deal with human rights (Principles 3b and 3c of GPR No. 2). According to Article 4.2.B of the Law, the VMR can assist victims of human rights violations (Principle 3d of GPR No. 2). Article 5 of the Law enables the VMR to participate in judicial and administrative proceedings, as recommended in Principle 3e of GPR No. 2. Articles 4.2.B, D and 5 of the Law imply that the VMR has the right to hear and consider complaints and petitions concerning specific cases, as per Principle 3f of GPR No. 2. Article 13 of the Law establishes an obligation for all authorities and other public bodies to support the VMR in carrying out its tasks, in particular by providing the necessary information (Principle 3g of GPR No. 2). The functions and responsibilities of the VMR enumerated under Article 4 of the Law are thus largely in line with Principle 3 of GPR No. 2.
18. During the country visit, several interlocutors underlined their high expectations towards the VMR. At the same time, they highlighted that the VMR is lacking the crucial competence to bring cases of individual and structural discrimination or intolerance in its own name before institutions and the courts ("Verbandsklagerecht"), as recommended in § 14d of the revised text of ECRI's GPR No. 2. ECRI is of the opinion that this competence is important for enabling equality bodies to address issues of structural discrimination without being obliged to expose a specific victim to burdensome court proceedings.
19. ECRI strongly recommends that the Liechtenstein authorities provide the Association for Human Rights with the competence to bring cases of individual and structural discrimination or intolerance in its own name before institutions, adjudicatory bodies and the courts.

2. Hate speech¹⁵

- Extent of the phenomenon

20. Concerning hate crime in general the Liechtenstein authorities provided the following statistics: Eighteen proceedings were initiated for hate crime incidents between 2013 and 2017 (2013: one; 2014: one; 2015: four; 2016: five; 2017: seven). In 2013, there were no convictions related to hate crime (2014: one; 2015: none, 2016: two).¹⁶ According to the authorities, the increase of numbers in recent years could be linked to the amendments made to Article 283 CC in 2016.

¹⁴ US Department of State 2016a.

¹⁵ According to ECRI's GPR No. 15 on combating Hate Speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

¹⁶ See in this context also Landespolizei 2017: 5 and Marxer, W. 2017a: 96; 100.

21. With regard to hate speech in public discourse, ECRI is pleased to note that politicians and other public figures almost never resort to racist, homo- or transphobic declarations. However, ECRI is concerned about a recent public statement by the head of state, who in his 2016 new year's speech reaffirmed that he was opposed to giving homosexual couples the right to adopt children by stating that "the children are entitled to a normal family", adding that allowing the adoption of boys by gay men "is irresponsible".¹⁷ In this context, ECRI underlines that recent scientific studies concluded that there are no significant differences between children raised in same-sex families and other children with regard to their personal development or their educational or professional pathways.¹⁸
22. The press as such is not known for using offensive language. However, ECRI is concerned that hate speech was reported in several readers' letters ("Leserbriefe"), which were published in daily newspapers. While some contained hate speech denigrating and containing negative stereotypes¹⁹ about Muslims²⁰ and migrants,²¹ another letter alleged that a young girl living at the Refugee Reception Centre had been raped by several refugees of African origin. It would seem that this letter was printed without any journalistic investigation and that the subsequent police investigation revealed that the story was not true. During the recent public discussions on same-sex marriage and adoption rights for LGBT persons, other letters contained discriminatory and abusive remarks against LGBT persons. One of them, which was published on 17 August 2017, likened homosexuality to bestiality and cannibalism.²²
23. Civil society also informed ECRI about cases of verbal abuse and intersectional discrimination against women wearing a headscarf in public places, or when looking for accommodation or a job.²³ The Muslim community informed ECRI about racist and discriminatory discourse during an assembly of the Cooperative Association of Vaduz, which was asked to vote in favour of the transfer of a plot of land for setting up a Muslim cemetery.²⁴
24. In its fourth report (§ 62), ECRI noted that incidents connected to right-wing extremism were still present in Liechtenstein. According to the latest monitoring reports on extremism in Liechtenstein, the "European Action Liechtenstein" and the "People's Loyal Youth of Liechtenstein" have contacts with similar groups abroad. At the same time, these groups have stopped their activities in Liechtenstein and not committed new acts of violence or distributed flyers

¹⁷ The NGO Flay denounced this statement as "an implicit allusion to paedophilia", Stop Homophobie 2016.

¹⁸ A study conducted in Germany concluded that children raised in same-sex couple families do not differ in terms of depression, somatic discomfort or aggressiveness and that they have even higher self-esteem, Rupp, M. Dr. 2009: 309-310. Other research from the United Kingdom indicate that children adopted by gay or lesbian parents are just as likely to thrive as those adopted by heterosexual couples, University of Cambridge 2013; New Family Social 2015.

¹⁹ See the definition of hate speech in footnote 15 above. Concerning the question on in which cases criminal sanctions ought to be imposed for the use of hate speech, and in which cases other means should be used to counter and eliminate hate speech, see the Explanatory Memorandum to ECRI's GPR No. 15, and in particular its §§ 171 et seq.

²⁰ One of them alleged that "Europe was overrun by an inhuman Islam spreading in the Christian Occident without any obstacles", while "extreme Islamists allowed themselves to murder any other believer", adding that "Islam is not only a religion, but also a totalitarian, male-dominated and violent legal system".

²¹ In another letter, migrants were depicted as "criminal invaders", "rapists", "uneducated people whose cultures are incompatible with Western values", and "criminal gangs of young Arabs and maximum pigmented Africans, which use fire-bombs and home-made weapons to attack security forces".

²² The reader's letter described homosexuality as "an example of the bestial and crude way of life of animals".

²³ See for example Marxer, W., et al. 2017c: 86 et seq.

²⁴ Marxer, W., et al. 2017: 105-106.

containing hate speech in the country. In 2015 and 2016, no new court cases on offences with an extremist motivation were reported.²⁵

25. ECRI notes with great concern that hate speech and discriminatory remarks against vulnerable groups such as migrants, Muslims, foreigners and LGBT persons are disseminated by Internet fora such as the public Facebook group “Stammtisch Liechtenstein”. Antisemitic, anti-migrant and xenophobic cyber hatred was also published by “European Action Liechtenstein”, which advocated on its website for the freedom to question and deny the Holocaust. In March 2015, during a presentation in the Swiss canton of St. Gallen, a member of the same group referred to the Holocaust as “the lie of the century”; called for the re-establishment of the German Reich and praised the volunteers of the Nazi SS. During the meeting, members of the group also used other antisemitic language, such as criticism of “American-Jewish hegemony” and the “power machine of the Zionists.” The presentation was published on the group’s website.²⁶

- **Responses to hate speech**

26. As ECRI has recently outlined in its GPR No. 15 on combating hate speech, action is needed in several fields to prevent and combat hate speech successfully. These include prevention, awareness-raising, support for self-regulation, use of regulatory powers, civil and administrative law and, as a last resort, the criminal investigation and punishment of hate speech.
27. While ECRI is not aware of any condemnation or counter-speech by high-ranking officials or politicians against aforementioned or other instances of hate speech, it welcomes the fact that the Minister for Foreign Affairs of Liechtenstein sent out a tweet against hate speech and intolerance on 8 December 2016.²⁷ In 2017, the association MINTEGRA started an awareness-raising programme entitled Refujournalists, in cooperation with one of the daily newspapers (Vaterland). Double pages, the first of which was published on 19 September 2017, are dedicated to refugees living in Liechtenstein, who tell their life stories.
28. The two daily newspapers published in Liechtenstein are members of the Swiss Press Council. ECRI notes positively that the editor in chief of one of them (Volksblatt) recently decided not to publish any more readers’ letters that contain hate speech. The editorial board of the newspaper now follows the guidelines prepared by the Swiss Press Council for detecting and removing hate speech.
29. Article 6.2.e of the Media Act states that media content is considered unlawful if it incites or supports hatred or discrimination based on racial or ethnic origin, citizenship, gender, religion, age, disability, or sexual orientation. According to Article 45 of the Media Act, the general criminal law applies to media content. ECRI was informed that there is no specific (self-) regulatory body dealing with hate speech in the media (see § 7 of ECRI’s GPR No. 15). Individuals and the government itself can report media content, which constitutes criminal hate speech, to the prosecution services. It would, however, seem that the government has never reported any such case to the prosecution.
30. As regards hate speech on the Internet, Liechtenstein ratified the Convention on Cybercrime on 1 May 2016, but has not ratified its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. ECRI considers that the ratification of the Protocol would help to improve the Liechtenstein authorities’ response to cyber hate speech, notably by allowing the Liechtenstein police to benefit from international cooperation.

²⁵ Marxer, W. 2016b: 4; Marxer, W. 2017b: 4.

²⁶ Marxer, W. 2015: 38; US Department of State 2015: 4.

²⁷ https://twitter.com/MFA_LI/status/807119283918618624, accessed on 11.08.2017.

31. ECRI welcomes the fact that the authorities have continued their successful activities to tackle extremism, which are described in §§ 61 et seq. of ECRI's last report and is very much pleased with the result: extremist groups, such as the "European Action Liechtenstein", have stopped their activities in Liechtenstein as from 2014, and these groups no longer spread significant amounts of hate speech in the country.²⁸
32. With regard to the criminal investigation of hate speech, ECRI was informed that the police opened an investigation for "denying, trivialising, or justifying genocide and other crimes against humanity" following the incident in March 2015, when a Liechtenstein member of "European Action Liechtenstein" referred to the Holocaust as "the lie of the century" (see § 25 above)." Unfortunately, the police could not identify the perpetrator and had to close the file. On 28 August 2017, the Association for Human Rights filed a complaint with the public prosecutor about the letter published on 17 August 2017 (see § 22 above), denouncing the inhuman, discriminatory and slanderous remarks made against LGBT persons. ECRI encourages the law enforcement authorities to continue carrying out thorough investigations of such cases of criminal hate speech and to bring serious cases before the criminal law courts.
33. ECRI recommends that the Liechtenstein authorities reinforce their responses against hate speech, and notably (i) organise, together with the Association for Human Rights and the relevant civil society groups, an awareness-raising campaign about the prohibition of racist and homo/transphobic hate speech and discrimination, the legal provisions and rights existing in this field, and the procedures for reporting and filing complaints; (ii) encourage high-ranking officials and politicians to condemn hate speech and use counter-speech; (iii) support self-regulation initiatives of the media with regard to hate speech; and (iv) ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

3. Racist and homo/transphobic violence

34. Whereas ECRI reported several violent racist incidents in its last report published in 2013, it is pleased to note that no violent racist or homo/transphobic incident was recorded over the last five years.²⁹ The only case, which was reported to OSCE/ODIHR in 2015, concerned the desecration of a church, which was prosecuted and punished as an instance of hate crime.³⁰ In this context, ECRI encourages the Liechtenstein authorities to continue investigating thoroughly the existence of a racist or homo/transphobic motivation, whenever there is evidence pointing to the existence of such a motivation, and to systematically apply Article 33.5 CC providing for the aggravation of the penalty in such cases.

4. Integration policies

- Data

35. As of December 2016, Liechtenstein had around 37 810 inhabitants, 34% of which were foreigners (about 12 800). Around 6 750 residents originate from EEA countries, 3 600 from Switzerland, and about 2 450 from other countries (thereafter "third country nationals"), mainly from Turkey, Serbia, Bosnia and Herzegovina, Kosovo³¹ and "the former Yugoslav Republic of Macedonia". In

²⁸ UN, Human Rights Committee 2016: 34; Marxer, W. 2016b: 4 and 2017a: 101.

²⁹ Marxer, W. 2016b: 4 and 2017a: 101.

³⁰ OSCE-ODIHR 2017.

³¹ All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with UN Security Council Resolution 1244 and without prejudice to the status of Kosovo.

addition, about 19 300 people (half of the workforce), who live outside the country, commute every day to Liechtenstein.³² Almost all of them are foreigners.

- **Migrants**

36. The legal framework for the integration of foreigners is contained in the Law on the Free Movement of EEA- and Swiss Nationals of 20 November 2009³³ and for other foreigners in the Foreigners Act of 17 September 2008. ECRI will mostly focus on the second text, which contains stricter rules with regard to integration and access to residence permits and citizenship.³⁴ According to Article 6 of the Foreigners Act, the goal of integration is the coexistence of the Liechtenstein and the foreign population on the basis of mutual respect and tolerance; integration requires both the will and efforts of foreigners to integrate into society and the openness of the Liechtenstein population. Foreigners shall adapt to social circumstances and daily life in Liechtenstein and, in particular, learn spoken and written German.
37. Third country nationals with a temporary B residence permit wishing to qualify for a permanent C residence permit have to conclude an integration agreement that usually requires passing a German language examination at A2 level and a civics examination on the functioning and the foundations of the state. Failure to comply with the integration agreement could be construed as lack of willingness to integrate and represents, under Articles 26.3 and 48.1.f of the Act, a ground for revoking a residence permit.³⁵
38. ECRI's delegation was informed that integration agreements are only concluded with adults and that the Foreigners and Passports Office provides financial support of up to 2 400 Swiss francs (CHF) per person for attending German courses at the levels A1, A2 or B1.³⁶ Two hundred and thirty-nine integration agreements were signed in 2014, 195 in 2015 and 127 in 2016. Out of the 590 persons that participated in the German and civics tests between 2011 and 2015, 455 (77%) succeeded.³⁷ In the framework of the language learning project LieLa, an innovative language training concept has been developed and implemented, which is tailor-made to the specific needs of refugees and asylum-seekers.³⁸ ECRI welcomes the fact that no residence permit has ever been revoked for having failed the tests. Third country nationals who have been living in the country for a long time are, due to recent amendments, no longer required to conclude integration agreements.
39. ECRI takes positive note of the adoption by the government of an integration concept entitled Strength through Diversity (the Integration Concept) in 2010, which included an action plan covering the years from 2011 to 2013. An "integration conference" was set up to serve as an exchange platform for politicians, the administration, civil society and the Commission on Integration Issues. The action plan included a broad range of awareness-raising, educative, training and participative activities targeting the general public, and migrants in general, but also groups of migrants such as children, women, elderly migrants or migrants with lower educational levels, which are particularly exposed to

³² Official website of Liechtenstein 2017a and b; Office of Statistics 2016: 12; Marxer W. & Hornich P. 2016: 71.

³³ German-speaking foreigners from EEA/EU countries are subject to a "special immigration regulation" negotiated by Liechtenstein within the framework of EEA freedom of movement agreement and Swiss citizens to a bilateral migration treaty concluded with Switzerland in 2005.

³⁴ European Commission 2013: 20.

³⁵ See also ECRI's fourth report §§ 86-88.

³⁶ Marxer, W. 2017a: 126.

³⁷ These figures include people passing the tests for acceding to citizenship (see § 49 below); Marxer, W. 2017a: 127.

³⁸ <http://liela.li/>, accessed on 22.02.2018.

discrimination.³⁹ ECRI regrets that the action plan did not contain integration indicators to measure the results of its implementation, that the outcomes of the integration concept and of the action plan were not evaluated, and that no new action plan was adopted in 2014.

40. ECRI recommends that the authorities commission a study about the problems that the different groups of migrants (including non-German speaking migrants, refugees, religious minorities, Muslims and cross-border commuters) face and develop a new strategy and action plan on the integration of migrants and people with migration backgrounds in all areas of life. The new national integration action plan should specify the actual measures to be implemented to achieve the goals set. Each goal and measure should be accompanied by indicators, base lines, target values, a timetable and an authority or person responsible for their implementation. Implementation should be assessed on a regular basis. The authorities should reach agreements with the employers about their contribution to this plan.
41. Along the same lines, ECRI is convinced that sound data is needed to identify the problems faced by different migrant groups living in the country, to evaluate and update the integration policies and to measure the impact of the different integration measures. ECRI therefore encourages the authorities to collect such equality data and refers to its recommendation made in § 77 below.
42. With regard to education, ECRI welcomes the fact that the authorities launched the project “Early Language Learning”, which was already taken up by six of the 11 municipalities; it is directed at early language acquisition before entry into kindergarten. Public kindergartens are free of charge and almost all children attend kindergarten for two years. As 40 % of them do not speak German as a first language, lessons in German as a second language are offered already during the first year. The second year of kindergarten is compulsory for all children whose mother tongue is not German, so that they can improve their German before entering primary school. The aim of these measures is that all children reach B1 level before entering primary school.
43. During the school year 2014/2015, 21% of school-age children practised a language other than German as their first language. ECRI is pleased to note that around 600 children were enrolled in additional German language classes in kindergartens and primary schools, and that around 84% attended them regularly. Since the school year 2014/2015, an additional intensive course of German as a second language is offered for children from eight years of age. Twenty-six children, who had not yet acquired sufficient German skills within mainstream classes, were enrolled.⁴⁰ ECRI however regrets to note that the school results of migrant pupils are still significantly lower than those of non-immigrant pupils. In the 2013 PISA education assessments, pupils with migrant backgrounds performed for example 40 points lower in mathematics than non-immigrant students.⁴¹
44. In 2016, 40% of the children with parents born abroad attended the lower-tier secondary school (Oberschule) (compared to 19% of the pupils with Liechtenstein citizenship), 25.1% the middle-tier secondary school (Realschule) (compared to 43%), and 25.1 % the upper-tier secondary school (Gymnasium) (compared to 27%). 61% of the pupils who are citizens of Turkey or of a Middle Eastern or North African country attended the Oberschule, 35% the Realschule, and none the Gymnasium.⁴²

³⁹ Foreigners and Passports Office 2017.

⁴⁰ Marxer, W. 2016a: 28; Marxer, W. 2017a: 28.

⁴¹ OECD 2013: 73.

⁴² Marxer, W. 2017a: 19-20.

45. Given these disparities, ECRI considers that the authorities should continue their efforts to enrol all children with migration backgrounds into pre-school education. At the same time, they should ensure that children with migration backgrounds already acquire, as from their pre-schooling, the necessary German language proficiency and other skills to achieve school results comparable to those of children without migration backgrounds. To this end, ECRI encourages the authorities to monitor the results of the measures already taken and whether they are sufficient to eliminate these differences in the school results. With regard to primary and secondary education, the authorities should develop measures to help children with migrant backgrounds, particularly those whose parents cannot provide the necessary support, to achieve school results comparable to those of children with German as a mother tongue. In this respect, ECRI regrets that the Association for Intercultural Education, which used to empower migrant women through German language courses to help their children at school, is no longer active. ECRI highlights once again the importance of establishing a school system which guarantees all children equal opportunities in access to education, including children of migrant backgrounds whose mother tongue is not German.
46. ECRI recommends that the Liechtenstein authorities introduce and quantify, in a new action plan on integration, the two objectives of (i) ensuring that all children whose mother tongue is not German acquire, during their preschool and primary school education, sufficient German language proficiency and other skills to achieve school results comparable to those of other children, and (ii) considerably increasing the enrolment rate of children with other mother tongues than German in the middle- and upper-tier secondary schools. The Plan should describe the measures which will be implemented to achieve these objectives.
47. With regard to employment, ECRI notes that on average 446 people living in Liechtenstein received unemployment benefits throughout 2016. The unemployment rate of foreigners (3.4%; 2015: 3.4%, 2014: 3.3%) was low, but twice as high as that of Liechtenstein nationals (1.6%, 2015: 1.7%, 2014: 1.8%). Unemployed cross-border commuters do not appear in these statistics; in 2016 the Liechtenstein unemployment insurance received around 780 applications from neighbouring countries for the reimbursement of unemployment benefits paid to commuters who had lost their jobs in Liechtenstein.⁴³ Non-German speaking first generation migrants, who often have a lower level of education and lack German language skills, face a much higher risk of unemployment.⁴⁴
48. To improve the situation of migrants on the labour market, ECRI encourages the authorities to step up their efforts to offer German language courses to all employees with migration backgrounds up to the level of native speaker. Currently, German language courses are partly state financed only during the first five years and only up to B2 level. In addition, shift workers often encounter obstacles to follow language courses and many small companies do not offer such courses to their employees. Since language skills facilitate integration, ECRI considers that the authorities should introduce into the new action plan on integration (see § 40 above) the objective and measure to expand the offer of language courses. Limitations with regard to the maximum level of these courses should be abolished. Expanding the offer of language courses and other positive measures for employees with migration backgrounds will open access to higher qualified jobs, and thus avoid patterns of structural discrimination.

⁴³ If commuters working in Liechtenstein lose their jobs, they can apply for unemployment benefits in the country they live in. In this case, the foreign unemployment insurance can apply to the Liechtenstein unemployment insurance for a refund of the unemployment benefit paid, in accordance with Article 65 of Regulation (EC) 883/2004.

⁴⁴ European Commission 2013: 31-32.

49. Foreign workers wishing to settle in Liechtenstein must apply for a residence permit in order to be allowed to live in the country. ECRI was informed that the authorities aim to preserve the one-third ratio of foreigners in the country and that the EEA-accession agreement takes this into account. In 2015, 494 foreigners received a residence permit, and 94% of the permits were limited to one to five years.⁴⁵ According to the authorities, citizens from EEA countries and Swiss nationals are usually granted a permit of five years, while third country nationals are granted one year permits. In 2015, 81% of the residence permits were granted to nationals from EEA countries or Switzerland.
50. Foreigners residing in the country can obtain citizenship after 10 years of residence in the country, if they submit a candidature to the vote of all citizens in their municipality. This vote is not based on objective and measurable criteria and runs the risk of arbitrariness and discrimination. Apart from that, foreigners can in general apply for citizenship after 30 years.⁴⁶ Non-German speaking foreigners must provide proof of proficiency in German at B1 level and all foreigners must pass a multiple choice test on civics.⁴⁷ In addition, they have to give up their original citizenship⁴⁸, as Liechtenstein does not yet accept dual nationality for naturalised people. This requirement constitutes a heavy burden for migrants, not only for third country nationals, but also for EEA nationals and Swiss citizens, and prevents them from applying for naturalisation.⁴⁹ Due to these restrictions, only 694 persons residing in Liechtenstein obtained citizenship between 2012 and 2016.⁵⁰ Since foreigners do not have voting rights even at the local level, they cannot participate in political life, either. Against this background, ECRI is pleased to note that the authorities are again considering the introduction of dual nationality and encourages them to bring this process to fruition. It also welcomes the possibility offered for foreigners to participate in the work of certain commissions at the municipal and state levels and encourages the authorities to further develop the participation of foreigners at both levels.
51. ECRI recommends that the Liechtenstein authorities open up new possibilities for the political participation of foreign residents, bring to fruition their plans to introduce dual citizenship and progressively ease the requirements for acceding to citizenship.
52. People with migration backgrounds who are victims of domestic violence can face extremely difficult situations. Firstly, such victims risk losing their residence permits, if they cannot prove their victim status and that they are well integrated.⁵¹ Secondly, like all people with migration backgrounds they risk losing their residence permits, if they receive more than CHF 75 000 in social aid per year; in this case, the Foreigners and Passports Office can revoke their residence

⁴⁵ Office of Statistics 2016.

⁴⁶ This residence requirement is reduced to 15 years for children born in the country. Foreigners married to Liechtenstein citizens can apply for citizenship after five years of residence.

⁴⁷ Citizenship Act 1960, as amended in 2008; Regulation of 2 December 2008 relating to the proof of language skills and the citizenship exam. Foreigners who have attended at least three years of compulsory schooling in Liechtenstein and successfully concluded the ninth grade or who have obtained a vocational education degree are exempted from the test on civics.

⁴⁸ An exception is only made if the country of birth does not accept the renunciation of citizenship.

⁴⁹ According to Article 16 of the Council of Europe's European Convention on Nationality, which Liechtenstein has not signed or ratified, provides that a State should not make the renunciation or loss of another nationality a condition for the acquisition or retention of its nationality where such renunciation cannot reasonably be required.

⁵⁰ 74.9% of them were granted Liechtenstein citizenship as a result of their long-term residency, 15.3% as a result of marriage and 7.6% through the procedure of citizen vote.

⁵¹ According to Article 39 of the Foreigners Act, persons who have suffered domestic violence and who have been married to a Liechtenstein national for less than five years, must prove either their victim status or that they are well integrated in Liechtenstein society, in order not to have their permit revoked upon dissolution of their marriage.

permits.⁵² This limit can be easily reached, due to the high living costs in the country, especially by women with children (see §§ 61-63 below). Thirdly, the women's shelter (Frauenhaus Liechtenstein) is not allowed to accept undocumented women fleeing domestic violence.

53. Against this background ECRI welcomes the signature by Liechtenstein of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) on 10 November 2016 and encourages Liechtenstein to ratify the convention as soon as possible. The entering into force of this instrument would greatly contribute to improving the protection of victims of domestic violence with a migration background.⁵³
54. Liechtenstein receives on average around 80 asylum applications per year. In 2016, 19 asylum-seekers were granted refugee status and seven were provisionally admitted. In addition, Liechtenstein accepted 23 Syrian refugees for resettlement.⁵⁴ During its country visit, ECRI's delegation visited the central reception centre in Vaduz⁵⁵ and took positive note of the decent living conditions for asylum seekers in the centre and of the medical and legal assistance they are provided with. Asylum seekers are allowed to work and their children attend regular schools. At the same time, ECRI regrets that asylum seekers do not have access to state-funded language courses. As many of them are highly motivated to learn German and will stay for months and years in the country, ECRI considers that they should be offered language and integration courses, such as the ones developed in the project LieLa (see § 38 above), as soon as they arrive to enable them to build contacts in their new place of residence. It encourages the authorities to introduce a corresponding objective into their new action plan on integration.

- **Religious minorities**

55. According to Article 37 § 2 of the Constitution, the Roman Catholic Church is the State Church and enjoys the full protection of the State. According to the 2015 census, 73.4% of the population was Roman Catholic, 7% Protestant Reformed, 5.9% Muslim, 1.3% Christian Orthodox and 1.2% Protestant Lutheran.⁵⁶ There is also a small Jewish community of around 30 persons, who informed ECRI that they consider themselves well-integrated and that they do not face any specific discrimination.
56. ECRI was informed that while the Roman Catholic Church receives financial and other subsidies from the State and the municipalities, which are worth about CHF 8 000 000 per year, the second biggest religious group, the Protestant Reformed Church, receives CHF 241 000 per year, including funding for religious classes, and the state supports Islamic religious classes with CHF 13 500 per year. All religious groups except the Roman Catholic Church have to organise themselves as associations and seek funding, notably through donations. ECRI welcomes the efforts that were initiated at the end of 2007 to separate the state and the church⁵⁷ and that the necessary legislation was adopted by the Parliament. While nine out of the 11 municipalities had found an agreement with regard to the division of real estate property with the Roman Catholic Church, the reform could not yet be brought to a positive result, as the two remaining

⁵² In accordance with Articles 69 and 49 of the Foreigners Act.

⁵³ See especially the principles of gender equality and non-discrimination, including on marital, migrant, refugee or other status as established under Article 4 of the Istanbul Convention, and the principles set forth on residence status under its Article 59.

⁵⁴ Office of Statistics 2016: 8; UNHCR 2016.

⁵⁵ UN, Human Rights Committee 2016: 18-19; Asylum Act (2011, as amended in 2016).

⁵⁶ US Department of State 2016b: 1.

⁵⁷ US Department of State 2008.

municipalities have not yet found such an agreement. ECRI wishes to remind that differences in the treatment of religious minorities, in particular with regard to their legal recognition and funding, can amount to discrimination on the ground of religion, and constitute a violation of Articles 9 and 14 of the ECHR.⁵⁸ Therefore, it encourages the authorities to bring this important project to a positive conclusion.

57. In primary school, children of Catholic or Protestant faith are automatically registered for religious education, but their parents can deregister them. ECRI positively notes the measures taken with regard to children from other religions, such as exemptions to compulsory religious classes and voluntary Islamic religious classes in German offered in some primary schools since 2008. As of 1 August 2017, these classes are funded by the government and the Muslim community provides the teachers. At the secondary school level, students can choose between a course on Catholic religious education and a general course in religion taught from a sociological perspective.⁵⁹
58. During its country visit, ECRI's delegation visited a Muslim prayer room located in an industrial area and noted with concern the problems of different Muslim communities in having access to appropriate premises for practising their religion.⁶⁰ Against this background, ECRI welcomes the publication of a study on "Islam in Liechtenstein", which was commissioned by the government and published in October 2017.⁶¹ The study is an important contribution to the recommendation made by ECRI in its fourth report to effectively fight prejudice against the Muslim community. ECRI also notes the efforts made in recent months to identify and acquire a suitable place for a Muslim cemetery. As described in § 23 above, the first attempt did not succeed and Islamophobic comments were made during the discussions. As freedom of religion includes the right to manifest one's religion in worship, practice and observance (Article 9.1 ECHR), ECRI considers that creating a Muslim burial site is a matter of great urgency and strongly encourages the authorities to find a solution for building such a burial site as soon as possible (§ 3 of ECRI's GPR No. 5 on combating intolerance and discrimination against Muslims).
59. ECRI recommends that the authorities strictly respect their duty of neutrality and impartiality in regulating matters of religion and abolish discriminatory regulations and practices in this regard. They should ensure that Muslim communities find adequate prayer rooms and bring the project of a Muslim burial site to a positive conclusion.

II. Topics specific to Liechtenstein

1. Interim follow-up recommendations of the fourth cycle

60. ECRI has already welcomed in § 15 above that the authorities have implemented the first interim follow-up recommendation to establish an independent equality body.
61. In its second interim follow-up recommendation, ECRI strongly recommended that the authorities abrogate the following provisions of the Foreigners Act: Article 49 providing that a permanent residence permit can be withdrawn, inter alia, if the non-national or his/her dependant is permanently and to a high degree dependent on social welfare; Article 69.2.e providing for the obligation of the Welfare Office to inform the Foreigners and Passports Office of any person receiving more than CHF 75 000 in social benefits; and Article 27.3 and 4,

⁵⁸ İzzettin Doğan and Others v. Turkey [GC], no. 62649/10, 26 April 2016.

⁵⁹ Freedom House 2016; US Department of State 2016b.

⁶⁰ For more details see Marxer, W., et al. 2017c:105-106.

⁶¹ Marxer, W., et al. 2017c.

providing that receipt of social benefits is an obstacle to securing a permanent residence permit (See also § 52 above).

62. With regard to the implementation of this recommendation, ECRI notes that the government submitted amendments to the Parliament to abrogate Article 69.2.e and to adapt Article 49 to the case law of the administrative court, according to which a permanent residence permit cannot be withdrawn due to dependency on social welfare, if a foreigner has continuously lived in the country for more than 15 years. ECRI regrets to note that the Parliament has rejected these amendments and that no information was provided with regard to any modification of Article 27.3 and 4. In this regard, ECRI repeats that a fixed rule that excludes all persons depending on social benefits from receiving a permanent residence permit paves the way to structural discrimination of the most vulnerable groups such as migrant women, who can become victims of structural and multiple discrimination.⁶² Even though the authorities informed ECRI that residence permits are almost never revoked based on this provision, it strongly encourages the authorities to implement this recommendation.

63. ECRI recommends that the Liechtenstein authorities successfully complete the amendment of the Foreigners Act and abrogate the following provisions: Article 49 providing that a permanent residence permit can be withdrawn, inter alia, if the non-national or his/her dependant is permanently and to a high degree dependent on social welfare; Article 69.2.e providing for the obligation of the Welfare Office to inform the Foreigners and Passports Office of any person receiving more than 75 000 Swiss francs in social benefits; and Article 27.3 and 4, providing that receipt of social benefits is an obstacle to securing a permanent residence permit.

64. The third interim follow-up recommendation was that the Liechtenstein authorities ensure that issues relating to the integration of non-nationals are addressed by the social agencies, with a clear allocation of responsibility.

65. ECRI was informed that the former Equal Opportunities' Office (EOO) has been dissolved and that half of its financial and human resources were attributed to the VMR and the other half to the Office for Social Affairs (OSA). While the OSA was given the responsibility for all projects and information campaigns on the integration of foreigners, the Foreigners and Passports Office (FPO) remains responsible for advising on language training and civics courses, financial support for such training, the conclusion of integration agreements and the control of compliance with such agreements. ECRI welcomes the efforts made towards a clear allocation of responsibility. However, ECRI still finds it problematic that the Integration Officer, who is responsible for integration agreements within the FPO, remains responsible for measures of control of compliance with such agreements and for the enforcement of the law. ECRI encourages the authorities to transfer the responsibility for the conclusion of integration agreements to the OSA.

2. Effectiveness of the Association for Human Rights (VMR)

66. ECRI notes with concern that the Association for Human Rights (VMR, see already §§ 15 to 19 of this report) has only been attributed three part-time employees to fulfil all parts of its broad mandate. In total, it only received CHF 30 000 for its establishment and it will annually receive CHF 350 000 to support its operations. The VMR will need to spend most of its budget on operational costs and will be obliged to raise funds from donors for its projects and other activities related to the whole range of human rights issues covered by its broad mandate. While ECRI welcomes that the VMR is free to raise additional funds, it considers that the government should step up its funding and staffing in

⁶² See § 56 of ECRI's 4th monitoring report.

order to enable the VMR to implement all its functions with real impact, without being dependent on on-going fundraising efforts.⁶³

67. ECRI recommends that the authorities assess, on the basis of objective criteria, the amount of human and financial resources that the Association for Human Rights in Liechtenstein needs to implement all its functions and competences with real impact and adapt the funding accordingly. They should involve the Association for Human Rights in this process.

3. Policies to combat discrimination and intolerance vis-à-vis LGBT⁶⁴

- Data

68. In Liechtenstein no systematic compilation of data takes place as regards sexual orientation or gender identity, although the government stated in 2013 that it intended to work on this issue.⁶⁵ Based on a study from 2007, the number of homosexual persons living in Liechtenstein is estimated to be around 750 to 1 900.⁶⁶ Between the enactment of the law on registered partnership for same-sex couples in September 2011 and September 2017, 32 couples entered into a registered same-sex partnership.

- Legislative issues

69. Article 31, the ground-laying provision of the Liechtenstein Constitution on equality, prohibits discrimination on the ground of sex, but does not explicitly mention sexual orientation or gender identity. Sexual orientation is mentioned in the Media Act (see Article 6.2.e), and in April 2016, this discrimination ground was introduced in Article 283 CC (see § 5 above).

70. In March 2011, legislation on registered partnership was enacted by the Parliament and published. After the collection of the required number of signatures by a group called Vox Populi, a referendum on the new law was held in June 2011,⁶⁷ in which 68.8% of the voters approved the law.⁶⁸ ECRI welcomes the enactment of the law on registered partnerships and considers that the results of the referendum very positively reflect a great degree of openness towards LGBT persons.

71. ECRI is pleased to note that registered same-sex couples have the same rights as married heterosexual couples in many areas, including inheritance law, social insurance law, occupational pension law, the law governing foreigners and naturalisations and tax law. For this purpose, various existing laws were amended. Since 1 January 2017, registered same-sex partners are also allowed to have a “common name”, which is an equivalent to the “family name” of married couples.⁶⁹

72. At the same time, ECRI considers that there is room for further progress. Legalising second parent adoption would be an important step for ensuring equal rights for children raised in rainbow families. ECRI would like to highlight that this right has already been granted for same-sex couples in 17 European states, including Austria and Germany.⁷⁰ ECRI furthermore encourages the authorities to examine whether there is an objective and reasonable justification for the other

⁶³ See also UN, Human Rights Committee 2017b.

⁶⁴ For terminology, see the definitions set out in CoE Commissioner for Human Rights 2011.

⁶⁵ COWI, Launois-Mayer S. 2011: 3; CoE, CDDH 2013: 326.

⁶⁶ This estimation is based on the figures of a survey from 2007; Marxer, W. 2017a: 6.

⁶⁷ Article 66 of the Constitution provides that a referendum should be held on a law passed by the parliament if at least 1 000 signatures are collected within 30 days of the publication of a law.

⁶⁸ ILGA-Europe, 22 March 2011; ILGA-Europe, 20 June 2011.

⁶⁹ UN, Human Rights Committee 2016: 31.

⁷⁰ Rainbow Europe 2017b. See also § 21 of this report.

remaining differences in the rules governing married heterosexual and registered same-sex couples and to abolish all unjustified differences.

73. During the country visit, ECRI was informed of one transgender national of Liechtenstein who had been able to change their name and sex on official documents in Liechtenstein based on Articles 46.1 and 87.2 of the Law on Persons and Companies, after having undergone gender reassignment surgery in Switzerland. It was also informed of another transgender person who started their transition and wishes to register their change of name and gender in Liechtenstein. ECRI notes that Liechtenstein has no special regulation concerning the access of transgender people to gender reassignment treatment, the coverage of the related costs by the health insurance or the registration of the change of their first name and gender.⁷¹ ECRI encourages the authorities to provide solutions to enable transgender persons to make their transition.

- **Promoting tolerance and combating discrimination**

74. ECRI regrets that the only survey dealing with discrimination of LGBT people dates back to 2007.⁷² At the same time, it takes positive note of more recent data, such as the outcome of the referendum (see § 70 above), which point to a significant improvement of the attitudes towards LGBT persons.⁷³ The entry into force of the law on registered partnerships of same-sex couples in September 2011 made another important contribution towards overcoming social taboos regarding homosexuality.⁷⁴ ECRI is furthermore pleased to note that the only LGBT association in the country (Flay) was recently revived by a young generation of members and that it organises awareness-raising activities on the rights and increases the visibility of LGBT people living in Liechtenstein.⁷⁵ Prominent openly LGBT people informed ECRI that they encounter no problems due to their sexual orientation and gender identity.⁷⁶ The recently established VMR is also mandated with protecting LGBT people and has filed a complaint with the prosecution services about a homophobic reader's letter (see § 32 above).
75. At the same time, incidents like the just mentioned letter show that LGBT persons continue to face prejudice. ECRI was informed by civil society that there is still not an open atmosphere in schools, that many LGBT students stay closeted and that they only dare to come out after the end of their schooling.⁷⁷ ECRI takes positive note of the fact that the Office of Education has taken measures to combat bullying at school, including information events, lectures and training for teachers. Issues of sexual identity and tolerance can also be covered within sex education, which in principle is obligatory in all schools.⁷⁸ At the same time, schools and teachers are free to choose how to implement this part of the

⁷¹ Pursuant to Article 46 of the Law on Persons and Companies, a change of name is possible if there are important personal or other grounds; the legal change of name is to be decided in administrative proceedings, COWI, Launois-Mayer S. 2011: 11; TGEU 2017.

⁷² Wang, J. December 2007: 8-10. According to the survey, 71% of the homosexual participants in Liechtenstein expressed that discrimination due to sexual orientation was widespread in the country and 87% of them that homosexuality was a taboo in Liechtenstein. 83% of the homosexual respondents had experienced discrimination either at work, at school, in access to goods or services or in dealing with the police, compared to 48% of the general population.

⁷³ See also a recent, not representative survey, in which 55% of the participants were in favour of introducing same-sex marriage in Liechtenstein: Vaterland, 30 June 2017.

⁷⁴ UN, Human Rights Committee 2016: 31; UN, Human Rights Council 2013: 5.

⁷⁵ Flay website.

⁷⁶ See also Volksblatt, 17 February 2013; Vorarlberg-News, 26 January 2013.

⁷⁷ See in this context also the aforementioned survey from 2007, according to which at that time 46% of the homosexual respondents in the country were confronted with harassment at school, Wang, J. December 2007: 8-10.

⁷⁸ CoE, Steering Committee for Human Rights (CDDH) 2013: 333.

curriculum and it would seem that LGBT issues are not covered in depth in quite a number of classes. LGBT persons also informed ECRI that they experience discrimination for example when accessing employment and housing.

76. ECRI considers that it would be important to commission a new study with regard to discrimination against LGBT persons in fields such as employment, housing, education, healthcare or access to goods and services. Such a study would help to understand the problems that LGBT people still face, promote awareness of their needs and pave the way towards preparing and adopting an action plan or a comprehensive programme for LGBT persons aiming to ensure that they can live on an equal footing with others in Liechtenstein. This study could be combined with a similar study on the situation and problems of migrants (see § 40 above).
77. ECRI recommends that the authorities commission a study about the problems that LGBT people face and what measures should be taken to remedy these problems.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Liechtenstein are the following:

- ECRI recommends that the authorities commission a study about the problems that the different groups of migrants (including non-German speaking migrants, refugees, religious minorities, Muslims and cross-border commuters) face and develop a new strategy and action plan on the integration of migrants and people with migration backgrounds in all areas of life. The new national integration action plan should specify the actual measures to be implemented to achieve the goals set. Each goal and measure should be accompanied by indicators, base lines, target values, a timetable and an authority or person responsible for their implementation. Implementation should be assessed on a regular basis. The authorities should reach agreements with the employers about their contribution to this plan.
- ECRI recommends that the authorities commission a study about the problems that LGBT people face and what measures should be taken to remedy these problems.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 3) ECRI reiterates its recommendation that Liechtenstein ratify Protocol No. 12 to the European Convention on Human Rights.
2. (§ 7) ECRI recommends that the Liechtenstein authorities bring their criminal law, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should (i) criminalise the public denial, trivialisation, justification or condoning, with a racist aim, of war crimes, and (ii) prohibit the creation and leadership of all racist groups that promote racism with the intention of contributing to racist offences.
3. (§ 14) ECRI reiterates its recommendation that the Liechtenstein authorities enact comprehensive anti-discrimination legislation in line with §§ 4-17 of its General Policy Recommendation No. 7.
4. (§ 19) ECRI strongly recommends that the Liechtenstein authorities provide the Association for Human Rights with the competence to bring cases of individual and structural discrimination or intolerance in its own name before institutions, adjudicatory bodies and the courts.
5. (§ 33) ECRI recommends that the Liechtenstein authorities reinforce their responses against hate speech, and notably (i) organise, together with the Association for Human Rights and the relevant civil society groups, an awareness-raising campaign about the prohibition of racist and homo/transphobic hate speech and discrimination, the legal provisions and rights existing in this field, and the procedures for reporting and filing complaints; (ii) encourage high-ranking officials and politicians to condemn hate speech and use counter-speech; (iii) support self-regulation initiatives of the media with regard to hate speech; and (iv) ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
6. (§ 40) ECRI recommends that the authorities commission a study about the problems that the different groups of migrants (including non-German speaking migrants, refugees, religious minorities, Muslims and cross-border commuters) face and develop a new strategy and action plan on the integration of migrants and people with migration backgrounds in all areas of life. The new national integration action plan should specify the actual measures to be implemented to achieve the goals set. Each goal and measure should be accompanied by indicators, base lines, target values, a timetable and an authority or person responsible for their implementation. Implementation should be assessed on a regular basis. The authorities should reach agreements with the employers about their contribution to this plan.
7. (§ 46) ECRI recommends that the Liechtenstein authorities introduce and quantify, in a new action plan on integration, the two objectives of (i) ensuring that all children whose mother tongue is not German acquire, during their preschool and primary school education, sufficient German language proficiency and other skills to achieve school results comparable to those of other children, and (ii) considerably increasing the enrolment rate of children with other mother tongues than German in the middle- and upper-tier secondary schools. The Plan should describe the measures which will be implemented to achieve these objectives.

8. (§ 51) ECRI recommends that the Liechtenstein authorities open up new possibilities for the political participation of foreign residents, bring to fruition their plans to introduce dual citizenship and progressively ease the requirements for acceding to citizenship.
9. (§ 59) ECRI recommends that the authorities strictly respect their duty of neutrality and impartiality in regulating matters of religion and abolish discriminatory regulations and practices in this regard. They should ensure that Muslim communities find adequate prayer rooms and bring the project of a Muslim burial site to a positive conclusion.
10. (§ 63) ECRI recommends that the Liechtenstein authorities successfully complete the amendment of the Foreigners Act and abrogate the following provisions: Article 49 providing that a permanent residence permit can be withdrawn, inter alia, if the non-national or his/her dependant is permanently and to a high degree dependent on social welfare; Article 69.2.e providing for the obligation of the Welfare Office to inform the Foreigners and Passports Office of any person receiving more than 75 000 Swiss francs in social benefits; and Article 27.3 and 4, providing that receipt of social benefits is an obstacle to securing a permanent residence permit.
11. (§ 67) ECRI recommends that the authorities assess, on the basis of objective criteria, the amount of human and financial resources that the Association for Human Rights in Liechtenstein needs to implement all its functions and competences with real impact and adapt the funding accordingly. They should involve the Association for Human Rights in this process.
12. (§ 77) ECRI recommends that the authorities commission a study about the problems that LGBT people face and what measures should be taken to remedy these problems.

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