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European Commission Against Racism and Intolerance

First report on Finland

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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 eleven ECRI's country-specific reports² were transmitted to the governments of the countries concerned in July 1997. The reports are accordingly now made public. The following report contains ECRI's analysis and proposals concerning Finland.

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.

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 first series of eleven reports, for which the procedure was completed by June 1997, 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 FINLAND³

Introduction

Finland's geographical situation places it on the border between Eastern and Western Europe; it has therefore been closely concerned by the enormous changes which have transformed Europe in recent years. It is traditionally a country of emigration rather than immigration, which is only recently starting to experience the phenomenon of immigration, although it has its own traditional minority groups such as the Lapp (Saami) and Roma/Gypsy populations. There are also 295 000 Swedish-speaking Finns, and Swedish is the second official language of Finland. The Aaland Islands are Swedish-speaking and have considerable administrative autonomy.

Given the fairly recent nature of immigration into Finland, it is understandable that its structures have little experience or training as regards the new situation, and clear policies and measures must be developed rapidly to cope with the new situation. The administrative system in Finland is rather complex in that there is a central administration but a very high degree of autonomy in the municipalities. Although the central administration has initiated a number of projects aimed at combating racism and intolerance, these may not always easily "filter down" to have a local effect.

The Finnish authorities have recently made legislative amendments to the Constitution and Penal Code, which might have the effect of strengthening action against racism. They have also taken measures, such as the appointment of a Ministerial Committee to draw up a programme of action against racism and discrimination. Various non-governmental organisations, schools, the mass media and others have been very active in promoting tolerance in Finland and in setting up projects at national and local level.

ECRI hopes that these initiatives will prove successful. Although at present there are still relatively few non-citizens in Finland, it can be said that levels of intolerance are somewhat high. The population as a whole and the large majority of its opinion leaders are rather passive as regards the reception of new groups.

Finland is currently experiencing a considerable increase in unemployment, both among Finnish citizens and particularly among non-citizens. This situation is particularly likely to give rise to problems and should be carefully monitored and appropriate measures taken to deal with it.

³ Note: Any development subsequent to 4 October 1996 is not covered by the following analysis and is not taken into account in the conclusions and proposals

Some of the key areas identified by ECRI as meriting particular attention include:

- the new phenomenon of immigration into the country;
- establishing a reliable system of data collection and evaluation;
- awareness-raising and promotion of positive attitudes;
- unemployment of non-citizens;
- lack of legislation to counter activities which may incite to racial violence;
- the attribution of responsibility for issues connected with racism and intolerance.

I LEGAL ASPECTS⁴

A. International legal instruments

1. Finland has not as yet ratified the Framework Convention for the Protection of National Minorities. It is understood that ratification of this instrument is under preparation, and it is hoped that the necessary steps will be taken without delay. Other international instruments of relevance in the field of combating racism and intolerance have been ratified by Finland: its declaration in 1994 under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination whereby it allows individual communications to be considered by the Committee is to be commended.
2. In view of Finland's indigenous Saami population, consideration might also be given to the possibility of ratifying ILO Convention No 169 concerning indigenous and tribal peoples in independent countries⁵.
3. Further efforts might be made to raise awareness of Finland's obligations under the various international human rights instruments, which should be translated into the languages used in Finland and widely-distributed, particularly to police and criminal justice officials, but also to other public authorities and to the public at large. ECRI notes that the Ministry for Foreign Affairs is currently translating some of the conventions into the most common Sami language spoken in Finland, and encourages the Ministry to continue with such initiatives.

B. Constitutional Provisions

4. The constitutional framework has recently been revised to include a provision guaranteeing that, as a rule, the rights enshrined in human rights treaties apply to all persons residing within the jurisdiction of Finland whether or not they are Finnish citizens. Although race is not explicitly mentioned as a ground of discrimination, it presumably falls under the general expression "other reason relating to person": furthermore, the Government Bill to Parliament (309/93 vp) notes that the concept "origin" found in Section 5 of the Constitution Act covers the concepts "race", "national origin", "ethnic origin" and "colour". There is also a new provision strengthening the rights of certain minority groups, in particular the Saami and Roma/Gypsy communities. Another new provision, Section 16a sub-section 1, states that public authorities shall secure the implementation of fundamental rights and of international human rights. These amendments represent an important step forward in the range of measures taken by Finland to combat racism and intolerance.

C. Criminal Law Provisions

⁴ A full overview of the legislation existing in Finland 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).

⁵ The Finnish authorities state that Finland has not yet been able to ratify this Convention since national legislation has not been deemed to correspond to the provisions of the Convention, mainly as regards the land rights of the Sami people. In Spring 1996 the Ministry of Labour and the Ministry of Justice, after consultation with the Sami Parliament, submitted their report on the issue to the Parliamentary Committee for Constitutional Law, which has not yet dealt with the matter.

5. Recent reforms in the Penal Code, extending the scope of the provisions on discrimination practised in employment, trade or business, service of clients, discharge of official duties, public entertainment or public meetings, are welcomed.
6. Given the relatively high incidence of cases of racial violence and harassment in Finland, and the fact that such cases are not always perceived by the police, prosecuting authorities or the general public as being particularly serious, it is felt that racist or xenophobic motives could be considered as an aggravating factor when punishing such crimes, and that it should be made clear among the general public that such offences are considered as being especially grave. The police and prosecuting authorities should be encouraged to pay particular attention to such offences and ensure that the legislation in force is fully implemented. Consideration might be given to measures to ensure the full implementation of Article 4, (on racist propaganda and organisations), and Article 6, (on effective protection and remedies), of the Convention on the Elimination of All Forms of Racial Discrimination.
7. Crime statistics show that it is very seldom that charges are brought in offences of discrimination, although there does seem to be an increase in charges brought since 1989. Some cases concerning refusal to allow entry into restaurants have been successfully prosecuted, and this is an encouraging sign. However, as in most countries it is very difficult for individuals to bring charges in such cases due to a variety of practical and attitudinal obstacles, both among law enforcement officials and among the general public. Other than prosecuting such cases, one way to work towards eliminating these types of discrimination could be to make potential offenders - restaurant owners for example - aware of their obligations under the law, both by explaining the reasons behind such legislation and by promoting their understanding and acceptance of the underlying principles of protection of human rights: this type of action could be undertaken by an Ombudsman or similar body.

D. Civil and Administrative Law Provisions

8. Although at present, discrimination on racial or ethnic grounds in the field of employment is prohibited, in practice such discrimination is rarely punished, since the alleged discrimination is so difficult to prove. As regards the burden of proof, the Employment Contracts Act takes as its starting point Section 17(1) of the Rules of Procedure which places the burden of proof on the plaintiff. If the plaintiff can put forth probable causes to support his or her claim that certain measures by an employer were based on discriminatory grounds, the employer has to provide evidence to the contrary and justify the acceptability of the measures taken. ECRI feels that since employers are in a better position than alleged victims to provide evidence as to whether their decision to choose one candidate over another was well-grounded or not, it should suffice for an applicant to provide some evidence of discrimination in civil cases of this kind.
9. Following Section 54 of the Employment Contracts Act and Section 3 of Chapter 47 of the Penal Code, a punitive sanction results from an infringement of section 17(3) of the Employments Contracts Act, which stipulates that an employer must treat employees equally so that no one will groundlessly be placed in a different position compared to other employees on grounds of descent, religion, age, political or trade union activities, or any other comparable factor. If there are probable grounds for suspecting that this general prohibition of discrimination has been violated, the public prosecutor is obliged

to proceed with a criminal charge irrespective of whether the individual who has been discriminated against has submitted such a request.

10. The Finnish authorities are encouraged to raise awareness among employers and the general public concerning the legislation against discrimination in employment, and to seek ways of encouraging victims to come forward and bring cases to the notice of the authorities.

E. Specialised bodies

11. The appointment in January 1996 of a Ministerial Committee, composed of seven cabinet ministers, to draw up a programme of action against racism and discrimination and the setting-up in 1994 of a Commission against Racism, Xenophobia, Antisemitism and Intolerance, composed of politicians, journalists, academics, religious leaders and other public figures, are to be commended as a public demonstration of a political will to act against these phenomena. While the programme drawn up by the Ministerial Committee is intended to provide general policy guidelines on action against racism to deal with both acute and long-term problems, the Commission against Racism, Xenophobia, Antisemitism and Intolerance is independent from policy-making bodies and most of its activities and influence centre around its public statements and moral authority. Furthermore, the Government has reappointed the Advisory Board for Refugee and Migrant Affairs (see paragraphs 28 and 33).
12. The possibility of appointing either an Ombudsman or commission with special responsibility in the field of combating racism and intolerance, or extending the powers of the existing Parliamentary Ombudsman or the resources, independence and remit of the Ombudsman for Foreigners, could be considered. The body responsible should cover all groups of minorities, both indigenous and other minority groups, refugees and immigrants. Whatever solution is adopted, the independence of such a body should be ensured, especially in relation to the government. Its tasks might include mediation, investigation of complaints, specific action in particular fields (eg actions to combat anti-Semitism), publicity and awareness-raising, monitoring of legislative and other measures in force and making recommendations where appropriate, establishing contacts with key bodies (trade unions, police, employers' organisations), etc.

II POLICY ASPECTS

F. Reception and status of non-citizens

13. Some steps have been taken to deal with the new phenomenon of immigration into Finland. For example, a committee to outline a refugee and immigration programme was appointed by the Council of State in 1995 and has now presented its final report. ECRI feels that it is a matter of some urgency that government policy as regards refugees and asylum-seekers should be formalised and made widely-known. This will ensure greater coherence and clarity at all levels, particularly at the initial point of contact and decision-making, i.e. officials responsible for border control. At a wider level, government policy in this field should be made known and explained to the general public in a positive manner, and public misconceptions or prejudices concerning refugees and asylum-seekers countered. A clear distinction can be made between migration policy and policy concerning immigrants who are already settled in the country. More openness and discussion regarding decisions taken concerning asylum-

seekers is also to be encouraged, thereby allowing both the public and especially the mass-media to comprehend the policy followed and the enactment of legislation.

14. There should be a clear, written and widely-publicised set of rules and regulations concerning all aspects of immigration, refugees and asylum decisions (eg criteria to be met, time-limits etc.). The rules should be understandable and accessible to officials, those requesting admittance, the general public and the mass-media.
15. Some concern has been expressed that policies to disperse immigrants and other newcomers as widely as possible throughout the various municipalities may in fact prove to be too isolating and may actually have prevented some groups from preserving their own culture and identity. While the creation of "ghettos" is generally seen as something to be avoided, it should not be forgotten that enabling immigrants and newcomers to build their own community structures and networks may in some cases assist them in settling in a new country. Finland should consider the various alternatives available as regards the settlement of immigrants and others allowed to stay in Finland, and perhaps conduct some research into the success of its policies to date.
16. Government officials in all sectors (health, social services, immigration, etc.) may lack experience in dealing with the changing situation in Finland and its growing "non-Finnish" population. Further efforts could therefore be made to educate and train staff dealing on all levels with newcomers in Finland. In this respect, it is noted that the training section of the Advisory Board on Refugee and Migration Affairs has surveyed training needs and is drawing up recommendations for educational institutions.
17. Measures taken to facilitate the settling of new arrivals into the country should be encouraged and widened. For example: material destined for newcomers - handbooks etc. - might be produced in an even wider range of languages; information might be provided to familiarise the new and increasingly diverse arrivals with Finnish society, social structures and access to services, to avoid unnecessary difficulties; resettlement of refugees in local municipalities could be in some way monitored or regulated (again, a problem of co-ordination).
18. Given the rapid changes taking place in immigration patterns in Finland, new groups may need special consideration. Finland has many examples of policies and measures targeted at particular groups such as the Roma/Gypsies and Saami, but other groups, such as the growing wave of immigrants from the ex-Soviet Union, could also benefit from more specific consideration and measures, as it seems that programmes aimed at such groups do not exist in Finland.

G. Education and training

- *Police training*

19. The police and criminal justice officials should be further motivated and trained to become involved with issues of racism and discrimination and to take responsibility for acting against racism and racial discrimination in all its forms. One example might be the setting-up of a special task force within the police to deal with the problems of skinhead attacks on non-citizens. In this respect, attention is drawn to the study prepared by the Steering Committee on Migration (CDMG) of the Council of Europe on "Police training concerning migrants and ethnic relations". Bearing in mind that the police plays such an important role in dealing with discrimination, it is advisable that police practices be

actively screened for overt and covert discrimination by an independent body such as the Parliamentary Ombudsman, and that any discrimination perpetrated by members of the police force be treated with the necessary severity to emphasise the gravity of such offences.

- ***School education***

20. Given the rapidly changing situation due to immigration into Finland, school curricula could include teaching on Finland's obligations under the various international instruments relevant in the field of combating racism and intolerance, and human rights in general with specific reference to how such issues relate to the current situation in Finland.

H. Employment

21. The unemployment rate among non-citizens is over double that of Finnish citizens: about 50% of all non-citizens and up to 90% of some individual immigrant groups are unemployed. The Roma/Gypsy population too has been demonstrated in surveys to experience difficulties on the labour market. This exacerbates the problems of poverty and exclusion which are significant factors of the phenomenon of racism and intolerance. Special measures should therefore be taken to counteract this tendency. For example:
 22. More special training measures could be initiated to help people from minority groups to enter the labour market, such as "access" courses to prepare them to enter vocational and technical training courses and "conversion" courses to adapt experience and qualifications already acquired. Vocational skills of non-citizens could be acknowledged even when they do not quite correspond to the formal requirement in Finland. Additional training may be provided in such cases.
 23. Education and qualifications obtained abroad might be more widely taken into account and evaluated as a possible basis for entry into higher education or employment, in order to allow non-citizens to escape the spiral of unemployment. The task of assessing qualifications obtained abroad might be entrusted to a special body set up for this purpose.
 24. Schemes to encourage non-citizens to set up their own businesses, including special training in business skills, advice to ensure equal access to finance, advice concerning the relevant regulations in force etc, have proved in many countries to be a positive way to allow access to the labour market, and might also be considered in Finland.
 25. Employers should be educated concerning their legal obligations to ensure equal treatment in recruitment and promotion. More importantly, they could be encouraged to consider the economic and social advantages of cultural diversity, both as regards their workforce and as regards their customers, and to take a public stand in favour of diversity. Import and export firms in particular may be responsive to encouragement to recruitment of immigrants, since this may considerably increase their business opportunities abroad.
 26. Recruitment practices which effectively exclude non-citizens because they do not possess sufficient knowledge of Finnish could be scrutinised. Knowledge of other languages may frequently compensate for less than perfect Finnish.

27. It would be most desirable if trade unions in Finland took a more active interest in the situation of non-citizens who are after all their members and merit special attention.
28. ECRI notes that the Ministry of Labour has set up a working group to study guidelines for immigrants' employment and training, and that the Advisory Board on Refugee and Migration Affairs is preparing a programme of action concerning the employment of immigrants in collaboration with representatives of immigrants and the social partners.

I. Statistics

29. It is only in the last few years that Finland has started to collect statistics on immigrants and minority groups in a systematic and analytical fashion, although censuses have always been carried out. Further efforts could be made to collect, in accordance with European laws, regulations and recommendations on data protection and protection of privacy, reliable and harmonised statistics in all fields in order to facilitate the development of appropriate and effective policy. Responsibility for keeping such statistics should be centralised by one body to ensure an overall coherence and comparability. One area needing particular attention is the further development of police recording of incidents of racial violence and harassment, which seem to be on the increase.

J. Media

30. The importance of the mass media in informing the public cannot be stressed too highly. The mass media could therefore be systematically informed about racist incidents by public authorities: in this way, the media could be encouraged to report such incidents in a balanced fashion. The media could also be informed about reasons for government policy, particularly in the field of immigration. The ethics committee which exists in the Union of Journalists and the Council for Mass Media which considers complaints and may publish its decisions as a sanction are examples of self-regulatory practices which could be developed further to ensure that they function efficiently.
31. The responsibility for the supervision of compliance with the Finnish Act of Freedom of the Press (1/1919) rests for the time being with the Ministry of Justice, although a reform of the Act is under preparation. However, matters concerning freedom of the press are seldom brought to the attention of the Ministry. ECRI notes with concern that apparently some Finnish newspapers continuously and systematically defame immigrants, and that in 1996 the Ministry of Justice dealt with only two cases of discrimination of an ethnic group: in neither case was it found to be necessary to take further measures or give an order for prosecution under the Act of Freedom of the Press.
32. In the framework of its cultural policy, Finland might also consider facilitating the access of minority groups to the public broadcasting networks, in order to raise public awareness of the culture and lifestyles of various different groups living in Finland and illustrate the benefits of cultural diversity. Steps might also be taken to recruit television presenters etc from minority groups.

K. Other areas

- ***Agencies responsible for developing/implementing/monitoring policy***

33. Given the rather decentralised nature of Finland's administrative structure, and the on-going developments as regards its demographic situation, efforts could be made to ensure an overall co-ordination of policy by allocating extra powers and responsibility to the already-existing Advisory Board on Refugee and Migration Affairs, or to some other body. Such a body could be responsible for policy concerning immigrants and refugees but also for matters concerning those indigenous minorities which express the wish that special measures be taken to improve their situation. Its mandate could also cover the implementation and monitoring of legislation, providing a forum for dialogue between government representatives and representatives of minority associations, and promotion and explanation of policies among the majority and minority populations.
34. It is strongly suggested that bodies set up to deal with questions of policy-making and implementation in the field of combating racism and intolerance should include members of minority groups.

- ***Racial violence and harassment***

35. At present, there seems to be a lack of discussion on the part of politicians and other opinion-leaders concerning issues of racism and racial discrimination, and little public debate. Acts of racism are not usually condemned by politicians, and media reporting tends to sensationalise such incidents, which may even have a negative effect on public opinion. Silence on these issues runs the risk of going beyond mere passivity and may be considered by some as a tacit acceptance or approval of such attitudes or behaviour. Bearing in mind that several racist incidents have recently been reported in Helsinki and elsewhere in Finland, a more overt commitment at a political level would provide a framework for debate on such issues and allow the administrative bodies dealing with such problems to develop a coherent and co-ordinated strategy to tackle them. It is essential that strong public commitment to fight racism and promote tolerance is consistently expressed at the highest political level, both on the part of national and of local political leaders, as well as on the part of police representatives, members of the judiciary and other leaders of public opinion. It should be made clear that the main goal in this respect is to enable the various groups living in Finland to live together in a harmonious fashion.

- ***Roma/Gypsy community***

36. The Roma/Gypsy community, as in most other countries, faces disadvantages in many fields of public life, although their situation has improved in recent years, due to efforts on the part of the Finnish authorities and on the part of the Roma/Gypsy community itself. An Advisory Board on Romani Affairs draws half its members from the Roma/Gypsy population, and makes initiatives and proposals. ECRI emphasises the importance of recruiting competent minority members to take over more responsibility for affairs concerning their own group. The Romani Educational Unit, which is funded by the Board of Education, has the task of promoting the Romani language and culture and for disseminating information both among the Roma/Gypsy population and among the majority population. Such efforts to raise awareness of the culture, history, language and lifestyle of this community should continue and be further developed throughout Finland, both in schools and among the general public. Other initiatives which might be taken to improve the situation of the Roma/Gypsy population might include: specialised training of Roma/Gypsy individuals, particularly as regards rights and obligations under the law, who could then act as a sort of "bridge" between the Roma/Gypsy community

and the majority population and its structures; establishment of local initiatives to improve community relations between the majority population and the Roma/Gypsy population.

- ***Saami community***

37. It is felt that measures to raise awareness of the Saami culture, history, language and lifestyle, not least in areas of Finland where Saami are not present, might be further developed, both in schools and among the wider population. Efforts should especially be made to inform the Finnish population correctly of the implications of the increased cultural autonomy for the Saamis. The efforts on the part of the Finnish government to amend legislation in order to increase the cultural autonomy of the Saamis are welcomed and such efforts should be pursued in a way which is acceptable to Saamis themselves.

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 Finnish government on 13 July 1994.

ECRI accepts no responsibility for the data below.

Non-citizens: 55 587 (1993), including 7 468 ex-Soviet Union, 6 528 Swedes, 5 893 Estonians, 5 828 Russians, 2 883 Somalians, 2 072 ex-Yugoslavians, 1 754 Americans, 1 676 British, 1 576 Germans, 1 403 Vietnamese, 1 087 Chinese, 995 Turkish, 919 Iranians, 705 Polish, 560 Moroccans, 516 Norwegians, 13 724 Others
11 000 refugees and 1041 asylum-seekers in Finland in 1994

Population of Finland: 5 116 800 (end 1995) This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)

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

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