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European Commission Against Racism and Intolerance

First report on Liechtenstein

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

¹ The report prepared by the Swiss Institute (ref: CRI (97) 38), covering relevant legislation in member States of the Council of Europe is available from ECRI's Secretariat.

² Reports on Belgium, the Czech Republic, Finland, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta and Poland.

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

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

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all forty member States of the Council of Europe. This second series of reports, for which the procedure was completed by January 1998, will be followed by other series of reports on the remaining member States of the Council of Europe. The order in which the reports are produced has no significance other than that these are the first reports to be completed.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

REPORT ON LIECHTENSTEIN⁴

Introduction

Liechtenstein's situation is rather particular as it is one of the smallest countries in the world but with one of the largest proportions of non-citizens. There are about 30,000 inhabitants and 38% are of these are non-citizens. About 2/3 of these non-citizens come from neighbouring countries, such as Switzerland and Austria, and from Germany. The proximity of these countries and Liechtenstein's size mean that there is regular movement across the borders in both directions for business, shopping and visits. The rest of the non-citizen population comes from Italy and other countries.

Although there appear to be few problems of racism and intolerance in Liechtenstein at the present time, care should be taken to monitor the situation to ensure that the appropriate action can be swiftly taken should such problems arise in the future. The authorities of Liechtenstein are aware of the world-wide problems which exist in this field and try to monitor the situation. Concern has been expressed that groups such as the "skinhead" movement existing in neighbouring countries may have a negative influence in Liechtenstein, and the Minister of the Interior has examined all legal possibilities and safety measures which might be taken if such a problem should arise. The government also launches preventive campaigns to inform and sensitise people concerning the problems of racism and intolerance.

⁴ Note: Any development subsequent to 7 February 1997 is not covered by the following analysis and is not taken into account in the conclusions and proposals.

I LEGAL ASPECTS⁵

A. International legal instruments

1. Apart from the European Convention on Human Rights, Liechtenstein has not as yet ratified any of the relevant international legal instruments in the field of combating racism and intolerance. It is understood that Liechtenstein plans to ratify the following instruments: United Nations Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Civil and Political Rights, and the International Covenant on Economical, Social and Cultural Rights. It has also stated its intention to ratify the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages very shortly (probably before the end of 1997). It is hoped that all these instruments will be ratified without delay. Liechtenstein should also consider ratification of the UNESCO Convention against Discrimination in Education and the European Social Charter. Even if such ratification is not strictly necessary in Liechtenstein's case, ratification of international instruments also demonstrates solidarity with other European States and a commitment to combating racism and intolerance.

B. Constitutional provisions

2. The Constitution in its Article 31 stipulates that all citizens are equal before the law, and that the rights of non-citizens are governed by treaty, and in the absence of any treaty, by reciprocal law.

C. Criminal law provisions

3. The Criminal Code penalises public incitement to violence or public agitation or insult against a church or religious community or against a race, people, ethnic group or state (para. 283 Criminal Code). It also prohibits genocide in its paragraph 321.
4. Due to the skinhead movements which have been noticed in neighbouring countries and in Liechtenstein, the government intends to establish a new paragraph in the Criminal Code against racism in all its forms as well as against national socialist activities and propaganda. The paragraph will also take into account the planned ratification of the CERD.

D. Civil and administrative law provisions

5. There are few civil and administrative law provisions in Liechtenstein to combat racism or racial discrimination. Article 33 ff. of the "Personen- und Gesellschaftrecht" protects everyone against violations and threats to their personality rights and their physical and psychological integrity, reputation or generally the respect for and value of their personality. Although this article does not specifically mention racism or racial discrimination, it may provide the legal grounds to go to court in a case of a violation of personality with a racist motive. Furthermore, the employment law protects the employee or employer against dismissal on the grounds of a personal quality which the employee or employer by virtue of his or her personality is entitled to and which does not essentially affect co-operation at the workplace. This provision may also be used in

⁵ A full overview of the legislation existing in Liechtenstein 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.

cases of racial discrimination. Nevertheless, a more specific legislative framework against discrimination in civil and administrative law would be desirable as a precautionary and preventive measure.

II POLICY ASPECTS

E. Reception and status of non-citizens

6. A distinction is made between various groups of non-citizens. Swiss citizens are in a privileged situation (on a basis of reciprocity) as regards the possibility to work in Liechtenstein without an approval (Grenzgängerbewilligung). The citizens of members of European Economic Area (EEA) also enjoy privileges (e.g. right to exercise their profession, right to participate in the national social security system...).

Apart from this, non-citizens are equally treated concerning their rights and duties. Public schools, public health services etc are available to all non-citizens.

7. The Liechtenstein authorities mention in their reply to ECRI's questionnaire that certain groups of non-citizens may experience problems in their integration because of their religious and cultural differences from the majority population. However, for most of the non-citizens integration is harmonious, due to the lack of significant differences in language, culture or religion. The small size of the country, the low level of urbanisation and the attitude of the authorities towards non-citizens also account for the lack of real tension concerning non-citizens. There is no political force which has included this topic in its programme, which therefore does not play a role in day-to-day politics.

Citizenship may be applied for after five years of residence in Liechtenstein. For non-citizens married to citizens of Liechtenstein, there is a special regulation for citizenship requests: each year of marriage is counted as the equivalent of 2 years of fixed abode. More than 50% of women in Liechtenstein are married to non-citizens.

In April 1995, following accession to the EEA, two orders were updated with a view to regulating right of residence and right of employment ("Begrenzungsverordnung", "Verordnung über den Personenverkehr im EWR"), in order to stabilise the proportion of non-citizens (38%) among the population. The proportion was considered very high, even in the EEA, and the members of the EEA agreed on a restriction of the free movement of persons, which will be re-examined in 1997 in order to decide on its future application.

F. Employment

8. There are more employees in Liechtenstein than inhabitants. Some residents are employed outside the country, while many non-residents are employed in Liechtenstein.

G. Other areas

- Associational life

9. All associations are according to their statutes non-political and open to non-citizens, and non-citizens are generally well represented, particularly in the fields of sport and culture. The activities of associations of non-citizens include meeting and formulating a common position vis-à-vis the authorities in Liechtenstein and their authorities in their home countries. Most such associations are very active in the fields of sport and culture,

presenting national celebrations etc. Representation in the media is without restrictions: although non-citizens do not generally have their own communications channels, they can use the Liechtenstein press and private radio (there is no national TV).

- ***Monitoring the situation***

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

- ***Awareness-raising***

11. Governmental and non-governmental campaigns have been launched to demonstrate the situation and concerns of non-citizens living in Liechtenstein and to promote their integration. Young people in particular are targeted. Such initiatives should be continued.

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 Liechtenstein government on 13 July 1994.

ECRI accepts no responsibility for the data below.

Non-citizens: 11,269 (August 1994) of which 41.3% Swiss, 19.8% Austrian, 9.8% German, 7.8% Italian, 1.8 Spanish, 2.3% Portuguese, 0.8% Greek, 2.8% ex-Yugoslavian, 6.5% Turkish, 7% other.

Population: 28,452 (1990). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography).

BIBLIOGRAPHY

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

1. Reply to the ECRI questionnaire supplied by the authorities of Liechtenstein
2. CRI (94) 2 and Addendum: Situation in the member States of the Council of Europe concerning the issues under examination by the European Commission against Racism and Intolerance: Working papers submitted by the members of ECRI, Council of Europe document
3. Recent demographic developments in Europe, Council of Europe Press, 1994
4. CRI (95) 2 rev.: Legal measures to combat racism and intolerance in the member States of the Council of Europe, Council of Europe publication