

CRI (97) 58

European Commission Against Racism and Intolerance

First report on Malta

Adopted on September 1997

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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 Malta.

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

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.

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 MALTA³

Introduction

Malta is a constitutional republic and parliamentary democracy. It is a small archipelago in the Mediterranean covering 316 square km. This strategically-placed island group has played vital roles in the struggles of a succession of powers for domination in the Mediterranean region. Malta gained independence within the British Commonwealth in 1964 and became a republic in 1974. In 1979 it ceased, with the departure from the island of the last British servicemen, to be a military fortress and base.

Malta's ethnic composition is a mixture of Italian, Arab, British and Phoenician heritages. Practically all of the population is native-born. The dominant religion is Roman Catholicism.

During the last fifty years, the level of migration exerted a considerable influence on population growth: the country was, especially between the two wars and in the early years after the last war, traditionally a country of emigration, but since 1975 returnees number more than emigrants as a result of an enhanced standard of living, education, social and other services. Emigration is now at almost negligible levels. The economy, which is a mixture of State-owned and privately-owned industry, is based around tourism and light industry, and foreign investment is actively promoted.

Official sources state that problems of racism, intolerance or discrimination are virtually unknown in Malta.

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.

I LEGAL ASPECTS⁴

A. International legal instruments

1. Malta has ratified the majority of international legal instruments relevant in the field of combating racism and intolerance, with the exception of the European Charter for Regional or Minority Languages, and the Framework Convention for the Protection of National Minorities. Malta is currently giving serious consideration to the ratification of these instruments and is encouraged to do so rapidly. Malta has not accepted Article 14 of the Convention for the Elimination of All Forms of Racial Discrimination, which would allow for individual complaints to be examined by the Committee for the Elimination of Racial Discrimination: it is felt that Malta might accept this article.

B. Constitutional provisions

2. The main source of anti-discrimination legislation in Malta is contained in articles 32 and 45 of the Constitution. Article 32 of the Constitution states that every person is entitled to the fundamental rights of the individual, and this "whatever his race, place of origin, political opinions, colour or creed". Article 45 defines discrimination as "affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subject to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description". Furthermore, Article 5 states that no law shall make discriminatory provisions in itself or in its effect.
3. Section 120 of the Constitution sets up an Employment Commission to ensure that, in respect of employment, no distinction, exclusion or preference that is not justifiable in a democratic society is made or given in favour or against any person by reason of his political opinions.

C. Criminal law provisions

4. It appears that no provisions exist in the criminal law to combat racism and racial discrimination. While it is stated that the Maltese government does not feel the need to enact such legislation since it feels that existing legislation can be used very effectively to punish racial discrimination and that no incidents of racism or discrimination have ever occurred in Malta, ECRI would nevertheless point out that even if this was so, legislation may have a significant deterrent and educative effect and could therefore be viewed as a precautionary measure which might prevent incidents of racism and intolerance from developing. It is further pointed out that relevant legal provisions to combat racism and intolerance are one of the obligations which States accept under CERD.

D. Civil and administrative law provisions

5. No specific provisions exist in civil and administrative law to combat discrimination based on race etc. Although it does appear that discrimination is not a widespread problem in Malta at the present time, there have been some claims that discrimination in the renting of accommodation has occurred. Again, a legislative framework against

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

discrimination in civil and administrative law would be desirable as a precautionary and preventive measure, and it is noted that relevant legal provisions to combat racism and intolerance form one of the obligations accepted under CERD.

E. Specialised bodies

6. No specialised body exists in Malta to combat racism and intolerance, although there is the office of the Ombudsman, set up in July 1995. This provides a mechanism by which, inter alia, complaints regarding discriminatory treatment by or on behalf of government or any other authority can be investigated.

II POLICY ASPECTS

F. Education and training

7. It is noted that various campaigns have been undertaken in the media to mobilise public opinion against racial discrimination, and that the government has taken measures to improve the legal awareness of persons living in Malta as to their rights and obligations as regards racial discrimination. Racial tolerance and international understanding are included in the compulsory social studies component of the national curriculum, starting at the age of four. Students are encouraged to correspond with children in other countries, and efforts are being made to increase the number of foreign students studying in Malta: between 1994 and 1995 the number of foreign students at the University increased by 25%. All such measures are encouraged as a means of preventing problems of racism and discrimination from developing.

G. Monitoring the situation

8. All official sources state that no problems of racism and discrimination exist in Malta. The situation is monitored by Malta's participation in the reporting systems under the various related international conventions to which it is a party. One further possible way in which the authorities might monitor the situation would be to conduct a survey or opinion poll among the Maltese citizens to ascertain whether any underlying intolerance does in fact exist even if no incidents have been reported. Furthermore, non-citizens (immigrants, refugees, asylum-seekers, foreign students etc) might also be asked about their experience of living in Malta, as some forms of discrimination may exist which are not reported.

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 Maltese government on 13 July 1994. The Maltese government did not reply to ECRI's questionnaire

Population of Malta: 366 430 (end 1993). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)

BIBLIOGRAPHY

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5. Recent demographic developments in Europe, Council of Europe Press, 1994