

# **ECRI REPORT ON LIECHTENSTEIN**

**(fourth monitoring cycle)**

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## FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are 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-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking 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, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

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

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (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 report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

**The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 20 June 2012 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.**



## SUMMARY

**Since the publication of ECRI's third report on Liechtenstein on 29 April 2008, progress has been made in a number of fields covered by that report.**

Liechtenstein has signed the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. The ratification of this instrument is scheduled to be completed in 2012. Several racially motivated offences, including violent acts, have been swiftly prosecuted by the judicial authorities. Basic police training includes lessons on human rights and racism; the awareness raising campaign on right-wing extremism has focused on the police, prosecutors and judges. There are plans to set up an independent Ombudsman's Office.

Measures have been adopted to strengthen equal opportunities in access to education; inter alia, the number of day care schools offering accompanied learning and homework tutoring has been increased and initiatives targeting parents of pupils of migrant background, in order to improve their language abilities and raise their awareness of the importance of education, have been taken.

The Commission against Violence has commissioned a study on right-wing extremism in Liechtenstein, launched an awareness-raising campaign targeting the public and set up an interdisciplinary professional group to provide counselling in this field. Various initiatives have been launched in order to raise awareness on and to commemorate the Holocaust and several history teachers receive training in teaching about it.

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

Article 283 of the Criminal Code does not punish racist acts motivated on grounds of citizenship and language. Persons working in the criminal justice system do not receive special training on the application of the criminal law provisions aimed at combating racist offences. Liechtenstein lacks a comprehensive civil and administrative legal framework aimed at combating racial discrimination in all fields of life.

Concerns remain over the lack of independence of the Equal Opportunities Office and its limited powers to deal with racism, racial discrimination, xenophobia, antisemitism and intolerance in an efficient way. There are also worries that the administrative reform plan which has been approved by the Government, providing for the disbanding of the Equal Opportunities Office and the transfer of some or all of its functions to a new Office for Social affairs within a Ministry of Social Affairs, Family and Equal Opportunity, would greatly compromise the effective handling of complaints and the provision of advice in an independent manner.

The results of migrant pupils are significantly lower than those of pupils from Liechtenstein. Furthermore, the problem of over-representation of pupils of a certain migrant background in the lower-tier (level I) secondary school (Oberschule) persists. There are consistent reports of discrimination in access to employment, in remuneration and in access to housing experienced particularly by women of Muslim faith wearing a headscarf. The Law on Foreigners has clear discriminatory implications with respect to non-nationals' access to public services (those who are not Swiss or EU citizens). Notably, the current formulation of the law may induce non-nationals to refrain from applying for social benefits, out of fear of not obtaining a permanent residence permit, losing it, as well as being expelled from the country.

Under the new Foreigners Law all third country nationals with a temporary residence permit wishing to qualify for permanent residence must enter into an integration agreement; failure to comply with the latter is construed as lack of willingness to integrate and represents a ground for revoking a permit to stay. While third country nationals' right to stay is made conditional on learning the State language, funds to the only language association catering for the needs of persons who are socially disadvantaged are cut. There has been confusion over the division of responsibility in the field of integration between, on the one hand, the Foreigners and Passports Office and its Integration Officer and, on the other, the Equal Opportunities Office.

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

The range of acts listed under Article 283 of the Criminal Code should be prohibited also on grounds of language and nationality. Persons working within the criminal justice system, including judges of all instances, should be provided with specific training on and be sensitised of the importance of the application of the criminal law provisions aimed at combating racist offences. Comprehensive legislation aimed at combating discrimination on grounds of colour, ethnic origin, citizenship, religion or language, direct and indirect, in key fields of life such as employment, housing, public and private services, health and education, should be introduced. Such legislation should, in particular, provide for the principle of the sharing of the burden of proof.

The responsibilities of the new Office for Social Affairs and of the Ombudsman's Office should be specified. The latter should be designated as the national specialised body for combating racism and racial discrimination. This body should be entirely independent and be responsible, inter alia, for: hearing and considering complaints, providing assistance to victims, initiating and participating in court proceedings, monitoring legislation, providing advice to legislative and executive authorities, raising awareness and promoting policies and practices to ensure equal treatment\*.

The transfer between the different streams of secondary school (level I) should be made as flexible as possible in order not to compromise pupils' chances in life. All activities addressed to parents and pupils of migrant background should be strengthened, so as to limit the over-representation of such pupils in the Oberschule. There should be awareness raising about existing provisions prohibiting racial discrimination and any provisions that will be adopted in the future. This should target all relevant stakeholders, including employers, landlords and service providers and should inform them of the consequences of acts of racial discrimination.

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 should be abrogated.\*

The provisions in the Foreigners Law according to which failure to comply with the integration agreement is construed as lack of willingness to integrate and as a ground for revoking a permit to stay, should be abrogated. Suitable organisations with experience in German language training, which cater for the needs of socially disadvantaged non-nationals (for instance persons of lower income with low educational background - in particular women - and shift workers), should be provided

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\* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.



with the financial assistance needed to carry out their activities. Issues relating to the integration of non-nationals should be addressed by the social agencies, with a clear allocation of responsibility\*.

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\* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRl no later than two years after the publication of this report.



## FINDINGS AND RECOMMENDATIONS

### I. Existence and Implementation of Legal Provisions

#### International legal instruments

1. In its third report on Liechtenstein, ECRI reiterated its recommendation that Liechtenstein ratify the following international instruments as soon as possible: Protocol No 12 to the European Convention on Human Rights (ECHR), the European Social Charter (Revised); the International Labour Organisation (ILO) Convention No. 111 concerning Discrimination (Employment and Occupation), the UNESCO Convention against Discrimination in Education; the European Convention on Nationality; and the Convention on the Participation of Foreigners in Public Life at Local Level. It further recommended that Liechtenstein ratify as soon as possible the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
2. ECRI is pleased to note that on 17 November 2008, Liechtenstein signed the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. The authorities have stated that the ratification of the Convention and the Protocol are under preparation and scheduled to be completed in the course of 2012.
3. Although Liechtenstein was one of the first countries to sign Protocol No. 12 on 4 November 2000, it still has not ratified this instrument. The authorities have explained that they wish to see how the case-law of Protocol No. 12 will develop before any steps towards ratification are taken. In this connection, ECRI would like to remind the authorities that the case-law on Article 14 of the ECHR has been and will be used by the European Court of Human Rights (ECtHR) to interpret Protocol No. 12, in particular as regards the concept of discrimination (see the Grand Chamber judgment of the ECtHR, *Sejdić and Finci v. Bosnia and Herzegovina*, nos. 27996/06 and 34836/06, 22 December 2009).
4. Liechtenstein has not yet signed the European Social Charter (Revised), the European Convention on Nationality, the Convention on the Participation of Foreigners in Public Life at Local Level or the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Liechtenstein is still not a member of the ILO or UNESCO and, as a result, has not signed either the ILO Convention No. 111 concerning Discrimination (Employment and Occupation) or the UNESCO Convention against Discrimination in Education.
5. As concerns the European Social Charter (Revised), ECRI regularly stresses the importance of Article E of this Charter, enshrining the principle of non-discrimination in the enjoyment of the rights guaranteed there under. The Charter can also provide guidance in addressing issues related to the protection of and assistance to migrant workers and their families. As concerns the Convention on the Participation of Foreigners in Public Life at Local Level, the authorities have stated that, while there is no interest in ratifying this instrument, the participation of foreign residents in committees elected at the local level is not prohibited. In this connection, ECRI considers that such limited participation is not sufficient for integration purposes and that ratification of this instrument, as well as of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the European Convention

on Nationality, would confirm Liechtenstein's commitment to the effective integration of its large immigrant population (comparatively speaking)<sup>1</sup>. In so far as the Convention on Nationality is concerned, ECRI refers to the recommendation made in paragraph 11 of this report. In relation to the ILO Convention No. 111 concerning Discrimination (Employment and Occupation), ECRI notes that accession to the ILO<sup>2</sup> and ratification of this instrument would signal a commitment to fight effectively discrimination in the field of employment, including in the situations described in the section of this report dedicated to discrimination in employment. Ratification of the UNESCO Convention against Discrimination in Education would represent an effective tool to fight effectively discrimination in the field of education, including in the situations described in the section of this report dedicated to discrimination in education.

6. ECRI reiterates its recommendation that Liechtenstein sign and or ratify the following international instruments as soon as possible: Protocol No 12 to the European Convention on Human Rights; the European Social Charter (Revised); the Convention on the Participation of Foreigners in Public Life at Local Level ; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
7. ECRI recommends that Liechtenstein become a member of the ILO and then ratify Convention No.111 concerning Discrimination in Employment and Occupation of the ILO. ECRI also recommends that Liechtenstein ratify the UNESCO Convention against Discrimination in Education.

### **Citizenship legislation**

8. In its third report, ECRI recommended that the authorities reduce the residence requirements for naturalisation and urged the authorities seriously to reconsider the system of voting by local residents for the granting of citizenship.
9. Since ECRI's third report, the revised Law on the Acquisition and Loss of Liechtenstein Citizenship (the revised Citizenship Act) entered into force on 10 December 2008. As was anticipated in ECRI's third report, the new legislation eases certain requirements for naturalisation, while at the same time introducing new conditions. Notably, under the revised law, stateless persons have the right to be granted citizenship upon application, if they were born in Liechtenstein and have resided therein for five years. This right can be exercised until the 21st birthday and also applies to the underage children of the person in question. Furthermore, the minimum residence requirement for acquiring citizenship through marriage has been reduced from 12 to 10 years, with years of marriage counting double; in this connection, at least five years of marriage and renunciation of the original citizenship are required under the law<sup>3</sup>.
10. With the exception of the new requirements introduced by the revised Citizenship Act (see paragraph 13), the modalities and the length of residence provided for under the law in order to acquire Liechtenstein citizenship in all

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<sup>1</sup> According to the statistics provided by the authorities, about one third (33.1%) of the Liechtenstein resident population are non-nationals : of whom, 49.3% are from the European Economic Area (EEA), 30.2% are Swiss and 20.5% are from other "third" countries.

<sup>2</sup> Under Article 8 of the Convention No. 111 concerning Discrimination (Employment and Occupation), this instrument is binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

<sup>3</sup> The spouse who already has Liechtenstein nationality, however, must not have acquired it by a previous marriage.

other cases remain unchanged. As already described in ECRI's second and third report (respectively paragraphs 9 and 10), the "facilitated" procedure for naturalisation maintains a 30-year residence requirement with the years spent in Liechtenstein before the age of 20 counting double - a very long period compared to the 10-year requirement provided for under the European Convention on Nationality of the Council of Europe. The other possibility in order to obtain citizenship is the system of voting by local residents, which is subject to: a 10-year residence requirement, a favourable vote by the residents of the municipality in which the applicant resides and the consent of the Parliament and the Prince. While ECRI acknowledges that this procedure is seen by the population as an instrument of direct democracy, it stresses that other considerations, such as international obligations to fight discrimination, must be born in mind. This procedure in fact is not based on objective and measurable criteria and leaves the door open to arbitrariness and discrimination. ECRI notes that this can explain the negligible number of persons who have opted for and have acquired citizenship via this procedure<sup>4</sup>.

11. ECRI recommends that the authorities reduce the residence requirements provided for under the "facilitated" procedure to 20 years with a view to progressively bringing the law on citizenship in line with the standards set by the Convention on Nationality and ratifying this instrument.
12. ECRI recommends that the authorities abolish the system of voting by local residents as a procedure for obtaining naturalisation.
13. The revised Citizenship Act has introduced new requirements as concerns proof of German language and basic knowledge of the legal order of Liechtenstein and of the structure of the State in the "facilitated procedure". Notably, the applicant for naturalisation must provide proof of proficiency in German at B1 level and must pass a multiple choice test on civics. The test, however, does not need to be taken by persons who have done at least three years of compulsory schooling and who have successfully completed 9th grade in Liechtenstein, or who have completed a basic vocational, professional or occupational training course in accordance with the Vocational, Professional and Occupational Training Act.
14. In its third report, ECRI recommended that the authorities take steps to facilitate the possibility of holding double citizenship for non-citizens who would like to obtain citizenship of Liechtenstein through naturalisation.
15. The authorities have informed ECRI that this recommendation does not have the necessary political support. Thus, acquiring dual citizenship remains prohibited under Liechtenstein law and it is necessary to renounce one's original citizenship, in order to acquire Liechtenstein citizenship.
16. ECRI reiterates its recommendation to the authorities to take steps to facilitate the possibility of holding double citizenship for non-citizens who would like to obtain citizenship of Liechtenstein through naturalisation.

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<sup>4</sup> According to information provided by the authorities, between 2009 and 2010, four persons were naturalised according to the "facilitated procedure". There are no statistics available on the number of applications rejected by the local residents.

## Criminal law provisions

17. In its third report, ECRI encouraged the Liechtenstein authorities in their efforts to fine-tune the criminal legislation concerning racist offences and drew their attention to its General Policy Recommendation No. 7 (GPR No. 7) on national legislation to combat racism<sup>5</sup> and racial discrimination.
18. ECRI notes that, since its third report, Liechtenstein's criminal legislation aimed at combating racism and racial discrimination has not been amended. Accordingly, Article 321 of the Criminal Code prohibits genocide; Article 283<sup>6</sup> of the Criminal Code prohibits a range of racist acts, including: incitement to hatred or discrimination on the grounds of race, ethnic origin or religion; dissemination of racist ideologies; racist violence; denial of genocide and other crimes against humanity; refusal of a service meant for the general public on the grounds of race, ethnic origin or religion; participation in an association promoting racism; and the manufacture, storage, distribution or exhibition of racist material. Article 33-5 of the Criminal Code provides for racist or xenophobic motivation to be considered as an aggravating circumstance for all criminal offences. ECRI considers that, while the above-mentioned criminal law provisions provide a fairly comprehensive legal framework against racist offences, the acts listed under Article 283 of the Criminal Code should also be prohibited on grounds of nationality (citizenship) and language as recommended by ECRI's GPR No. 7.
19. ECRI recommends that the range of acts listed under Article 283 of the Criminal Code be prohibited also on grounds of language and nationality.
20. As concerns the application of the above mentioned criminal law provisions, ECRI notes that between 2009 and 2011 there were several racially motivated offences, including violent acts, which were swiftly prosecuted by the judicial authorities<sup>7</sup>. Notably, in 2010 the Court of Appeals sentenced eight persons to suspended terms of imprisonment for participation in an extremist right-wing group, under Article 283 paragraph i), lines 4 and 7 of the Criminal Code. The leader of the group was sentenced to a prison sentence of seven months. In the

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<sup>5</sup> ECRI, in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, defines "racism" as 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. It defines "racial discrimination" as 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.

<sup>6</sup> Article 283 provides the following: i) A person shall be punished with imprisonment of up to two years, if the person 1. publicly incites hatred or discrimination against a person or a group of persons on the basis of race, ethnicity, or religion; 2. publicly disseminates ideologies aimed at the systematic disparagement or defamation of members of a race, ethnicity, or religion; 3. organises, promotes, or participates in propaganda with the same objective; 4. publicly disparages or discriminates against a person or a group of persons on the basis of race, ethnicity, or religion in a manner violating human dignity, by means of spoken words, writing, images, electronically transmitted symbols, gestures, physical violence, or any other means; 5. publicly denies, grossly plays down the harm of, or attempts to justify genocide or other crimes against humanity, by means of spoken words, writing, images, electronically transmitted symbols, gestures, physical violence, or any other means; 6. denies a service he or she provides that is meant for the general public to a person or a group of person on the basis of race, ethnicity, or religion; 7. participates as a member in an association whose activity consists of promoting or inciting racial discrimination.

ii) A person shall be punished in the same manner, if the person. 1. manufactures, imports, stores, or distributes, for the purpose of further dissemination, documents, sound or image recordings, electronically transmitted symbols, depictions, or other objects of this sort whose content is a racial discrimination within the meaning of paragraph i; 2. publicly recommends, exhibits, offers, or presents them.

iii) Paragraphs i) and ii) do not apply if the propaganda material or the act serves the purpose of art or science, research or education, appropriate reporting on current events or history, or similar purposes.

<sup>7</sup> According to official statistics, in 2008 two complaints were received by the police concerning racist discrimination and racially motivated crimes, against five in 2009, three in 2010 and two in 2011.

same year the Liechtenstein courts convicted a person who had incited hatred and discrimination over the Internet against persons with Black skin and persons of Slavic ethnicity, under Article 283 of the Criminal Code. Again, in 2010, one person associated with the extreme right-wing scene in Liechtenstein, was convicted to a term of imprisonment of two and a half years, for two arson attacks against two buildings housing apartments and businesses, including a kebab shop, whose owners were of Turkish origin or were otherwise foreigners. Racist intention and repetition were applied as aggravating factors. On the contrary, racist motivation was not taken into consideration as an aggravating factor in three violent incidents. One of these incidents involved a mass brawl in 2008 between Swiss citizens affiliated with a skinhead group and youths of Turkish origin at the Oktoberfest in Mauren. The court of first instance found that the former had physically and verbally assaulted the latter with racist insults and this led to the physical confrontation of the two groups. It sentenced two Swiss citizens for bodily harm and applied racist motivation as an aggravating factor (and acquitted the remaining eight defendants). However, the appeal court confirmed the decision but did not find any racist motivation<sup>8</sup>. The other incidents concerned two violent attacks against a shop owner of Turkish nationality and a 14-year old boy of Turkish origin on a bus, respectively, in 2009 and 2010, which were joined in one case. The defendant was punished by a fine and required to pay damages; however, no aggravating factor was applied on account of a racist motivation<sup>9</sup>. ECRI does not wish to comment on the merits of these court judgments; nonetheless, it must stress that where racist motivation is apparent, it is important that it be acknowledged and considered in itself as criminally relevant by the competent authorities in order for Article 33-5 of the Criminal Code to have the intended deterrent effect.

21. In its third report, ECRI recommended that the authorities pursue their efforts in terms of training for the police, prosecutors, judges and future legal professionals as regards the application of the criminal law provisions aimed at combating racist offences, and in particular Articles 283 and 33-5 of the Criminal Code.
22. ECRI has been informed by the authorities that basic police training includes lessons on human rights and racism and that the police, prosecutors and judges were targeted in the awareness raising campaign on right-wing extremism (see section on right-wing extremism). ECRI welcomes these measures; however, the authorities have confirmed that persons working within the criminal justice system do not receive special training on the application of the criminal law provisions aimed at combating racist offences. Furthermore, the authorities acknowledged that training in this connection is particularly needed for judges of higher instances, as they do not frequently deal with cases involving racially motivated offences and therefore require greater sensitisation in this respect.
23. ECRI recommends that persons working within the criminal justice system, including judges of all instances, be provided with specific training on and be sensitised of the importance of the application of the criminal law provisions aimed at combating racist offences, and in particular Articles 283 and 33-5 of the Criminal Code.
24. In its third report, ECRI recommended that the authorities continue to inform the public about the existence of criminal law provisions for sanctioning racially

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<sup>8</sup> Notably, it stated in its decision that, even though the mass brawl was of a racist nature, the motivation and attitude of the three accused could not be established.

<sup>9</sup> The authorities, however, have stressed that the decision was taken by a juvenile court. The defendant was below the age of 21, which, under the law of Liechtenstein, qualifies as a mitigating factor for criminal offences.

motivated acts on a regular basis. It also recommended that they continue taking steps to encourage victims to report such acts.

25. ECRI notes that no specific action has been taken to inform the public of criminal law provisions sanctioning racially motivated acts. Similarly, no specific steps have been taken to encourage victims to report the above-mentioned offences. A study carried out in cooperation with the authorities<sup>10</sup>, states that underreporting of these types of offences is likely due to fear of or lack of trust in the institutions. While a Victim's Assistance Office was set up in 2008 with a view to providing legal advice and psychological support to victims of crime, this body has been approached only once in connection with a racist offence. Furthermore, it does not carry out any awareness raising activity and it can act only if it is contacted by the victims or their relatives.

26. ECRI recommends that the authorities actively inform the public about the existence of criminal law provisions aimed at combating racist offences and encourage victims to report such acts. ECRI further recommends that the support provided by the Victims' Assistance Office with respect to racist offences be strengthened and that this office carry out awareness raising activities.

27. In its third report, ECRI recommended that the authorities of Liechtenstein collect statistical data on the implementation of criminal law provisions against racism and that they extend this data collection so as to cover Article 33-5 of the Criminal Code.

28. ECRI has been informed that the police collect statistics on complaints concerning racist offences; however, this data does not encompass the subsequent proceedings. In other words, Liechtenstein lacks an institution mandated with the systematic collection of data on the breach of criminal law provisions against racism and racial discrimination, broken down by the number of opened investigations, number of cases referred to court, number of discontinued pre-trial investigations and the number of convictions or acquittals per reference year. ECRI notes that this information, if clearly broken down, is a useful tool in assessing the effectiveness and application of these provisions.

29. ECRI recommends that the Liechtenstein authorities strengthen the collection of data on the application of criminal law provisions punishing racist offences so that their effectiveness can be assessed. ECRI recommends that one already existing institution be made responsible to centralise the collection of this data and ensure that data on the breach of each of the abovementioned provisions be broken down by: number of opened investigations; cases referred to court; discontinued pre-trial investigations; and the outcome of the trials, per reference year.

### **Civil law provisions**

30. In its third report, ECRI strongly recommended that the authorities reinforce the civil and administrative legal framework aimed at combating racial discrimination in all spheres of life, having due regard to ECRI's GPR No. 7 on national legislation to combat racism and racial discrimination. It also stressed the importance of providing for a system of shared burden of proof with respect to discrimination in all areas of civil and administrative law and especially in employment, training, access to housing and goods and services available to the public.

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<sup>10</sup> "Facts and Figures on Human Rights", Liechtenstein Institute, 2011. pp. 89-90.



31. ECRI notes that since ECRI's third report, regrettably, Liechtenstein continues to lack a comprehensive civil and administrative legal framework aimed at combating racial discrimination in all fields of life. Notably, the only provisions which are of relevance in the fight against racial discrimination are: Article 31 of the Constitution providing for equality between citizens (and which, according to the authorities, is also applicable to non-citizens); and Article 46(1)(a) of the Employment Contract Act which prohibits termination of a labour relationship on the grounds of race, colour, descent, nationality or ethnic origin. The Law on Gender Equality, as amended in 2006, prohibits discrimination in the field of employment and in the supply of goods and provides for the principle of the sharing of the burden of proof; however it solely concerns discrimination on grounds of gender.
32. ECRI notes that most of the cases of alleged racial discrimination which have been brought to its attention both by civil society and the authorities have not been followed up with legal action. These relate to, in particular: access to employment, housing, services and education (see section in this report dedicated to discrimination in various fields). In the light of the above, in ECRI's view, the current legal framework does not provide sufficient means of redress to alleged victims of racial discrimination and does not encourage them to come forward with their grievances.
33. ECRI strongly recommends the Liechtenstein authorities to introduce comprehensive legislation aimed at combating discrimination on grounds of colour, ethnic origin, citizenship, religion or language, direct and indirect, in key fields of life such as employment, housing, public and private services, health and education. Such legislation should, in particular, provide for the principle of the sharing of the burden of proof.
34. In its third report, ECRI recommended that the authorities provide the public with information, through an awareness-raising campaign, about the existing provisions prohibiting racial discrimination and about any provisions that will be adopted in the future. ECRI notes that no such campaign has been carried out.
35. ECRI reiterates its recommendation to the authorities to carry out an awareness-raising campaign about the existing provisions prohibiting racial discrimination and about any provisions that will be adopted in the future. This campaign should target all relevant stakeholders, including, by way of example, employers, landlords and service providers and should inform them of the consequences of acts of racial discrimination.

### **Anti-discrimination bodies and anti-discrimination policy**

36. In its third report, ECRI recommended that the authorities of Liechtenstein guarantee the independence from the government of the Equal Opportunities Office and that they consider extending this Office's powers to ensure that it can act as a mediator or sanction the perpetrators of racial discrimination. More generally, ECRI drew the authorities' attention to this GPR No. 2 on Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.
37. ECRI notes that concerns remain over the lack of independence of the EOO and its limited powers to deal with racism, racial discrimination, xenophobia, antisemitism and intolerance in an efficient way. In this respect, ECRI refers to paragraphs 25 to 28 of its third report on Liechtenstein and further notes that the EOO's mandate and its website do not expressly mention the field of racism. The relevant statutes, in fact, limit the EOO's field of action to equality between women and men, migration and integration, social disadvantages, disability and sexual orientation. Nevertheless, since ECRI's third report there

was an increase in the number of discrimination complaints received by the EOO; notably, between 2008 and 2011, eight discrimination complaints were received, including on grounds of religion, origin and citizenship. In this connection, the EOO was able only to provide some advice or to refer the complainants to other bodies.

38. As concerns in particular the EOO's advisory role in the field of migration and integration, it must be noted that the staff member who had been designated to deal with these issues resigned in 2008 and that the position has not been filled since. Furthermore, both the authorities and civil society have indicated that the division of labour between the EOO and the Foreigners' and Passports Office in this field is not clear (see section on Vulnerable Target Groups, Other non-nationals) and that this has led to a decrease in the inquiries and complaints brought to the EOO on integration.
39. On a general note, various sources have indicated that in recent years the EOO has been very proactive, including on the issues of integration and migration; however, its efforts have been thwarted by lack of funds and human resources. In particular, as at February 2012, the EOO's staff included its Director<sup>11</sup>, employed on a part time basis, and one temporary staff member, both due to resign in June 2012. Furthermore, as concerns the implementation of the programmes provided for under the National Action Plan to Combat Racism, for which the EOO is competent since 2007 (see paragraph 25 of ECRI's third report), almost none of the EOO's planned activities have been carried out due to the above-stated reasons. These included: a campaign on religious diversity, a study on the situation of the Muslim population and an intercultural section in the communal library.
40. ECRI has also been informed that an administrative reform plan has been approved by the Government, providing for the disbanding of the current EOO and the transfer of some or all of its function to a new Office for Social Affairs within a Ministry of Social Affairs, Family and Equal Opportunity. It is also planned to set up an independent Ombudsman's Office whose mandate would encompass, inter alia, the receipt and handling of complaints, the provision of advice and the carrying out of studies. The authorities have not informed ECRI whether the new Ombudsman would be competent in the field of racism and racial discrimination, or whether, on the contrary, the new Office for Social Affairs would be mandated with this function. Concerns have been voiced by both civil society and certain authorities that the hierarchical subordination of the Office for Social Affairs to the Ministry of Social Affairs would greatly compromise the handling of complaints and the provision of advice in an independent manner.
41. ECRI recommends that the Liechtenstein authorities clearly specify the respective responsibilities of the new Office for Social Affairs and of the Ombudsman's Office and that, in particular, they designate the latter as the national specialised body for combating racism and racial discrimination. It emphasises the need to ensure that this body is entirely independent and is responsible, inter alia, for: hearing and considering complaints, providing assistance to victims, initiating and participating in court proceedings, monitoring legislation and providing advice to legislative and executive authorities, raising awareness on issues of racism and racial discrimination among society and promoting policies and practices to ensure equal treatment, as per ECRI's GPR No. 2.

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<sup>11</sup> The Director had initially resigned in April 2011 but, further to the authorities' request, agreed to continue to fill the position until a replacement would be found.

42. In its third report, ECRI strongly encouraged the authorities of Liechtenstein to combat all forms of racism, ranging from racist stereotypes and prejudice to more violent forms through long-term strategies beyond the five-year National Action Plan against Racism.
43. ECRI notes that no long-term antiracial-discrimination policy has been devised. However, two initiatives, which are described in other sections of this report, have been launched, notably: the campaign on diversity and the campaign against racist violence (see, respectively, paragraphs 98 and 63). ECRI underlines the importance of devising a policy which addresses and fights in a comprehensive manner, in addition to racist violence, racial discrimination in daily life.
44. ECRI recommends the Liechtenstein authorities to formulate a national policy aimed at fighting discrimination on grounds of colour, ethnic origin, citizenship, religion and language in daily life.

## **II. Discrimination in Various Fields**

### **Education**

45. In its third report, ECRI recommended that the authorities reinforce their efforts in establishing a school system which guarantees all children of immigrant background whose mother tongue is not German equal opportunities in access to education, including higher education and eventually in access to employment.
46. ECRI is pleased to note that a number of initiatives have been taken by the authorities that accord with the spirit of ECRI's recommendation. Two of these initiatives were already described in ECRI's third report: notably, the provision of intensive German courses for young children whose mother tongue is not German for a period of six to 12 months, prior to their integration in ordinary classes; and thereafter, supplementary courses of German from kindergarten to the end of compulsory schooling, up to a maximum of seven years. In addition to the above, since ECRI's third report, several other measures have been adopted in order to strengthen equal opportunities in access to education, notably: children whose first language is not German are required to attend a second year of kindergarten, during which they receive German tuition tailored to their needs; and, since 2009, standard German is the official language of instruction at all levels of schooling, including kindergarten<sup>12</sup>, in order to facilitate the integration of pupils of migrant background. Furthermore, the Liechtenstein authorities have informed ECRI that the number of day care schools offering accompanied learning and homework tutoring has increased. These day care schools have proved to be an important tool for pupils of migrant background, whose parents do not master German and who, consequently, cannot assist their children with their homework. In this respect, a series of praiseworthy initiatives have been taken targeting parents of pupils of migrant background, in order to improve their language abilities and raise their awareness of the importance of education. Notably, the Government has funded the initiative Mother-Child German, launched by the Association for Intercultural Education, which, through German language courses, aimed to improve the integration of women of migrant background and their children. While this initiative ran between 2007 and 2009, a similar initiative offering German language courses to mothers of migrant background and providing childcare, was offered as of 2010. Moreover, in 2011 a new State-funded programme for Turkish parents

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<sup>12</sup> Prior to 2009, dialect was used in kindergarten.

was launched, aiming to give them a better understanding of the school system as well as guidance to assist their children in school<sup>13</sup>. This programme was initiated by the Turkish Women's Association, inter alia, to address and find a solution to the over-representation of pupils of Turkish origin in the Oberschule (see paragraph 47). The course is offered on Sundays so that persons who work can attend it and it is moderated by a person who speaks Turkish and who is familiar with the problems of this part of the population in the field of education. The authorities have informed ECRI that other projects targeting parents with a migrant background of pupils of primary school have been implemented, encouraging them to be involved in their children's education and to read to them at home.

47. Notwithstanding the above measures, an international education assessment exercise (PISA) shows that the results of migrant pupils are significantly lower than those of pupils from Liechtenstein. Furthermore, the problem of over-representation of pupils of a certain migrant background in the lower-tier (level I) secondary school (Oberschule)<sup>14</sup> and in special needs schools persists. In particular, the authorities have informed ECRI that the pupils belonging to the following backgrounds attend the Oberschule: 58% of pupils of Turkish citizenship, 55% of pupils from Eastern and Southern Europe, 22% of pupils from Western Europe and America and 15% of pupils from Liechtenstein. The authorities have also confirmed that 25% of pupils attending Oberschule have lower intellectual abilities and 50% have special needs. Pupils are oriented towards a specific secondary school (level I) by teachers in fifth grade; should the pupils' parents disagree with the teacher's assessment, a test determines the type of school in a definitive manner. Because the three types of secondary schools (level I) give access to different career paths and transfer from one type of school to another is limited<sup>15</sup>, life chances can be particularly affected and, in certain cases, compromised. There has been agreement in Liechtenstein on the flaws and the unfairness of the above-mentioned schooling system (the streaming system) and the Government has sought to abolish it through legislative reform. However, the legislative changes were rejected by 52% of voters (against 47% in favour) at a referendum in March 2009. Representatives of vulnerable migrant groups have highlighted that the migrant communities, who are the most affected by the streaming system, did not have the opportunity to participate in the referendum as few of them are naturalised Liechtenstein citizens. While taking stock of the referendum, the authorities have informed ECRI that efforts to reform this system are continuing. Notably, there is the proposal to simplify the transfer from Realschule to Gymnasium and to postpone until the age of 11 (eighth grade) the decision to direct pupils to different types of secondary education.
48. ECRI takes note of the results of the referendum but deems that the streaming system, in practice, compromises migrant pupils' chances in life. While awaiting for a change in public opinion, favourable to the abolition of the streaming

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<sup>13</sup> The programme's title is Success starts from home.

<sup>14</sup> Pupils attend primary school from age 6 to age 11 (grades 1 to 5). The kind of secondary school a child attends depends on his/her performance. The three types of secondary schools (level I) are Oberschule (attended by 28% of children), Realschule (attended by 50% of children) and Gymnasium (attended by 22% of children). They are part of compulsory education and are attended by pupils who are 11 to 15 years old. Completion of Oberschule and Realschule gives access to general or vocational secondary education (level II) for pupils who are 15 to 19 years old (usually an apprenticeship). Completion of the compulsory years of Gymnasium (level I) gives access to secondary Gymnasium (level II) (for pupils who are 15 to 19 years old), which in turn can give access to university.

<sup>15</sup> Transfer from Oberschule to Realschule is possible after the first year and is practically impossible afterwards.

system, ECRI urges the authorities to ensure that transfer between the different streams be made as flexible as possible. Furthermore, the authorities should continue to strengthen all of the activities addressed to parents and pupils of migrant background mentioned in paragraph 46, so as to limit the over-representation of pupils of such a background in the Oberschule.

49. ECRI urges the Liechtenstein authorities to ensure that transfer between the different streams of secondary school (level I) be made as flexible as possible in order not to compromise pupils' chances in life. Furthermore, ECRI recommends that the authorities continue to strengthen all of the activities mentioned in the paragraphs above addressed to parents and pupils of migrant background, so as to limit the over-representation of such pupils in the Oberschule.

50. In its third report, ECRI recommended that the authorities provide financial support for mother tongue teaching for children of immigrant origin whose mother tongue is not German. ECRI notes that the Integration Concept (see section on Other non-nationals) and its Plan of Measures, includes enhancing multilingualism, by strengthening the teaching of pupils' native languages and culture<sup>16</sup>. ECRI welcomes this initiative and encourages the authorities to pursue it.

## Employment

51. Although, according to the authorities, there is no empirical evidence showing that immigrants face particular difficulties in finding employment, ECRI has been informed by civil society of anecdotal but consistent reports of discrimination in access to employment, as well as in remuneration. As concerns discrimination in recruitment, cases in which women of Muslim faith have been refused employment or traineeships because of their headscarf have been reported. The discriminatory intent was apparent because, allegedly, the employers had openly asked the candidates if they would be willing to remove the headscarf while at work and or had invoked the wearing of this garment as a reason for refusing to employ these persons. ECRI has also been informed of cases of discrimination on grounds of language. Notably, in the construction sector, there have been cases whereby a bonus was paid to all the employees, except for those who did not master the German language. Similarly, in the same employment sector, there have been cases where the employer has not paid sums of money, due in connection with insurance for loss of working hours during inclement weather, to those employees who did not speak German. More generally, the statistics available for the year 2008 show a gap of about 10% between the median wages of Liechtenstein citizens and foreigners. The above-mentioned reports suggest that comprehensive civil and administrative law provisions prohibiting discrimination on grounds of colour, ethnic origin, citizenship, religion or language in all fields of life including at all stages of employment is urgently needed in order to deter employers from discriminatory behaviour and in order to provide victims with a means of redress. Once these provisions will be in place, an awareness campaign informing employers of the consequences of discriminatory acts should be carried out.

52. ECRI has been informed that large companies offer and fund German language courses, including during work hours. They also organise awareness-raising activities on diversity and information events for newly arrived migrant workers and, through an integration manager, some companies assist their employees with any obstacle they may encounter in integrating in Liechtenstein. While

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<sup>16</sup> Notably, it is planned to grade the learning of native languages at school.

ECRI commends these initiatives, it notes that smaller companies and companies which are active in economic sectors with low wages offer no assistance with respect to the learning of German or the employees' integration in society. ECRI observes that language tuition would enable employees to be better acquainted with their rights in the field of employment and would consequently make them less exposed to discriminatory acts.

53. ECRI encourages the authorities to make further efforts to fund and offer German lessons at the workplace for the benefit of all people who need them, in order to help them integrate into Liechtenstein society.

## Housing

54. As was the case in ECRI's third report, ECRI has been informed that persons of Muslim faith, in particular, women wearing a headscarf and their husbands, have been refused rented accommodation on grounds of their ethnic origin and religion. The discriminatory motive was manifest in cases in which landlords openly stated that they did not wish to rent to Muslim women wearing a headscarf or when, upon discovery that the women of the household wore a headscarf, they decided against rental. Instances of discrimination in housing have also been confirmed by representatives of employers, who have informed ECRI that some employers provide assistance to migrant workers, as persons with a foreign name have greater difficulties than persons of Liechtenstein origin in securing accommodation. The authorities, likewise, have acknowledged that certain non-nationals and persons of a particular ethnicity may be at a disadvantage in finding housing; however, they have stressed that, in the end, everyone finds housing as there is a surplus of accommodation in Liechtenstein. The authorities have also informed ECRI that no measures have been taken to discourage discriminatory behaviour in this field, as a property owner's decision on rental is considered to be a private matter. ECRI notes in this respect that the 2010 Integration Concept (see the section of this report on Other non-nationals) focuses on the need to provide migrants with information on the expectations of landlords and does not provide for any measure aimed at informing the latter of the obligation not to discriminate. In this connection, the observations made in paragraph 51, as concerns the need for a comprehensive civil and administrative legal framework in the field of anti-discrimination and a subsequent awareness-raising campaign, apply, *mutatis mutandis*, to the field of housing.

## Health

55. ECRI is not aware of any specific difficulties encountered in the field of health in Liechtenstein by vulnerable groups. ECRI is pleased that on one occasion, a health campaign against depression was launched in Turkish, in order to address a health risk which had been present in this community.

## Access to public and private services

56. ECRI has been informed by the Liechtenstein authorities that under the Law on Social Security, non-nationals legally residing in the country are eligible to receive social benefits. Equal access to social welfare was also one of the stated aims of the Government's 2007 integration policy (see paragraph 41 of ECRI's third report). Articles 27(3) and (4), 49 and 69 of the Law on Foreigners, as amended on 16 March 2011<sup>17</sup>, however, have clear discriminatory

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<sup>17</sup> With entry into force on 11 September 2011.

implications which run counter to the above-mentioned policy<sup>18</sup>. Under Article 27, a non-national is eligible to receive a permanent residence permit if s/he, *inter alia*, has not received social benefits in the two years preceding the application and if s/he has sufficient financial assets ensuring that s/he will not have recourse to social benefits. Under Article 49 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. In order to ensure the application of Article 49, Article 69(2)(e) of the same law, provides that the Welfare Office must inform the Foreigners and Passports Office (which is responsible for issuing residence permits), if a person receives more than 75 000 Swiss francs in welfare benefits<sup>19</sup>. Although Article 69 of the Law on Foreigners is silent on the follow-up to be given by the Foreigners and Passports Office, the authorities have stressed that it does not necessarily result in the automatic withdrawal of a residence permit. According to the authorities, the Foreigners and Passports Office must take into consideration the reasons of the person's reliance on social welfare and the proportionality of the consequences which would stem from the withdrawal of a residence permit. Furthermore, the decisions of the Foreigners and Passports Office may be reviewed by an administrative court<sup>20</sup>. ECRI, however, has been informed by other representatives of the authorities and civil society that, as a result of the application of these provisions, one migrant family has received an order of expulsion and two other persons have been threatened with expulsion. One of these cases concerns a person committed to a therapeutic home, in need of medical assistance; the other concerns a person who has lived in the country for twenty years, is well integrated in Liechtenstein and holds a permanent residence permit. ECRI shares the concerns expressed by the authorities and civil society that the above-mentioned provisions put at a disadvantage persons who are particularly vulnerable; notably, non-nationals who are ill, elderly or suffer from disabilities. The current formulation of the law, in fact, may induce persons to refrain from applying for social benefits and to aggravate their condition, out of fear of not obtaining a permanent residence permit or even of losing it, as well as being expelled from the country. More generally, the vague formulation of Articles 69 and 49 of the Law on Foreigners risks leading to arbitrary decisions on the legal stay or on the status of a foreigner.

57. ECRI strongly recommends that the Liechtenstein authorities abrogate the following provisions of the Law on Foreigners: 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.

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<sup>18</sup> See Article 13§1 of the European Social Charter and Article 27 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

<sup>19</sup> Unemployment benefits, however, are not classified as social benefits and are therefore not included in the calculations relating to the ceiling of 75 000 Swiss francs.

<sup>20</sup> In one instance, the administrative court had found that the withdrawal of a permanent residence permit due to dependence on social welfare was illegal because the person concerned had lived in Liechtenstein for more than 30 years.

58. As concerns access to private services, ECRI has been informed that Turkish and Kosovo citizens<sup>2122</sup> are required to pay higher car insurance premiums (in the range of 35%) than those applicable to Liechtenstein nationals. Insurance companies claim that, according to statistics, nationals of these countries are more frequently involved in car accidents. ECRI notes that such practice is openly discriminatory, drawing assumptions and putting persons at a disadvantage on mere grounds of citizenship.
59. ECRI strongly recommends that the Liechtenstein authorities review the system of car insurance premiums in force in Liechtenstein, which makes it possible to vary the premium amount payable according to the driver's nationality, and take steps to end discriminatory practices based on citizenship in this field.

### III. Racist Violence

60. Since ECRI's third report, a number of racially motivated violent offences have been committed by persons predominantly associated with the extreme right-wing scene in Liechtenstein; the incidents and the relative decisions have been described in paragraph 20 of this report. Furthermore, ECRI has been informed that in the reporting period swastikas and other extreme-right symbols have been spray-painted in various towns with damage to public and private property.

### IV. Right-Wing Extremism

61. In its third report, ECRI strongly encouraged the authorities in their efforts to combat violent forms of racism such as right-wing extremism and recommended that this be done through long-term strategies. It further recommended that the authorities maintain their efforts in raising school pupils' awareness about the need to combat racism, in particular racist violence, and right-wing extremism.
62. ECRI notes that an extremist right-wing group of around 30 to 40 persons continues to be active in Liechtenstein. Studies commissioned by the Government show that these individuals are prevalently well integrated in Liechtenstein society and are closely linked to the extreme right-wing scene in Germany and Austria. Although they have been active in committing offences (see paragraphs 20 and 60) and in producing flyers advocating extreme right-wing views, these groups do not have political strength and are not represented in the Parliament. As concerns in particular the distribution of flyers to households in Liechtenstein, those responsible have been careful not to disclose their identity and have formulated the content in such a way that the authorities have not been able to press criminal charges for racial discrimination.
63. ECRI notes that the above-mentioned criminal activities, including violent acts, represent a strong argument for continuing to monitor the extreme right-wing scene closely. In this connection, ECRI is pleased that the Commission against Violence<sup>23</sup> (see paragraph 76 of ECRI's third report) has continued its work with respect to the fight against right-wing extremism. This body commissioned a study on right-wing extremism in Liechtenstein, which was published on

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<sup>21</sup> All reference to Kosovo, whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>22</sup> Liechtenstein has recognised Kosovo as an independent State.

<sup>23</sup> The Commission against Violence reports to the Ministry of the Interior and is composed of a prosecutor, a judge, a police officer, a representative of the Ministry of Foreign Affairs and one of the Ministry of Education, representatives of municipalities and youth workers. It observes and reports on developments concerning the extreme-right-wing scene.



16 September 2009. The latter was carried out on the basis of interviews with experts, persons affected by right-wing extremism, as well as right-wing extremists. It makes a number of recommendations which have been taken on board by the 2010-2015 Action Plan against Right-Wing Extremism, adopted by the Government and which relate to: awareness-raising measures aimed at the population as a whole and at encouraging political actors to advocate an open society; training relevant professionals (social workers, educators, judges, prosecutors, police officers, private security personnel and local council authorities) to deal with right-wing extremists; providing advice and support services to persons under the influence of right-wing extremism; pursuing perpetrators and supporting persons who wish to leave the right-wing scene; documenting and analysing the situation and recognising right-wing tendencies early<sup>24</sup>. ECRI has been informed that, out of the above-mentioned planned measures, an awareness-raising campaign on right-wing extremism targeting the public has been launched<sup>25</sup>; some training of police and prosecutors has been carried out; an interdisciplinary professional group has been set up to provide counselling in the field of right-wing extremism; the Liechtenstein Institute has been mandated with monitoring extreme-right-wing developments on a yearly basis; and an information event for parents has been organised in this field. ECRI commends the authorities' efforts to adopt a comprehensive strategy in the field of right-wing extremism and urges them to implement the planned measures fully. Particular attention should be given to the need to raise school pupils' awareness about the need to combat racist violence and right-wing extremism.

64. ECRI recommends that the Liechtenstein authorities implement fully the measures planned under the Action Plan against Right-Wing Extremism and raise the awareness among school pupils of the need to combat racist violence and right-wing extremist activities.

## V. Vulnerable/Target Groups

### Muslim communities

65. In its third report, ECRI strongly recommended that the authorities effectively combat racist stereotypes and prejudices as well as any other manifestation of religious intolerance on the part of members of the majority population against members of Muslim communities. In this connection, ECRI drew the attention of the authorities of Liechtenstein to its GPR No. 5 on combating intolerance and discrimination against Muslims, which provides detailed guidance on the measures which should be taken in this field.
66. ECRI notes that the Working Group on the Integration on Muslims, described in ECRI's third report (see paragraph 84), maintains its role as a platform for dialogue between the Muslim community<sup>26</sup> and the authorities. ECRI however, observes that, in addition to the Working Group, no specific action has been taken in order to combat racist stereotypes and prejudice against the Muslim population. Instances of alleged discrimination in the fields of housing, employment, education and services have been described in the section of this report dedicated to Discrimination in Various Fields. ECRI has also signalled a

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<sup>24</sup> This last measure is to be carried out through the Liechtenstein Institute, an independent research body.

<sup>25</sup> The campaign is entitled Together, let's stand up publicly against right-wing violence. This includes a series of posters each showing a photograph with two or more persons who have different perspectives from within the same milieu (for example, a teacher and a student or politicians from several different parties). In each case there is a specific message highlighting their difference along with a common message against right-wing violence and the slogan mentioned above.

<sup>26</sup> The Muslim community numbers around 1 900 individuals, out of a total population of 35 236 persons.

number of racially motivated physical offences against persons believed to be of Muslim faith and/or their property, in the subsection of this report on Criminal Law Provisions. Lastly, civil society has informed ECRI that there have been cases of verbal abuse of women wearing a headscarf in buses and of pupils at school. In the light of the above, ECRI considers that greater efforts should be made towards fighting prejudice against this community, drawing inspiration from GPR No. 5. Notably, in addition to enacting and/or applying criminal, civil and administrative legislation against racism and racial discrimination, awareness raising initiatives at the local and national level aimed at increasing the acceptance and the understanding of this community are recommended.

67. ECRI reiterates its recommendation to the Liechtenstein authorities effectively to fight prejudice against the Muslim community, drawing inspiration from GPR No. 5. Notably, in addition to enacting and/or applying criminal, civil and administrative legislation against racism and racial discrimination, awareness-raising initiatives at the local and national level aimed at increasing the acceptance and the understanding of this community are recommended. In this connection, ECRI recommends the authorities to resume the activities planned by the Equal Opportunities Office under the National Action Plan against Racism, notably: a campaign on religious diversity, a study on the situation of the Muslim population and an intercultural section in the communal library.

68. In its third report, ECRI recommended that the authorities continue their efforts and their dialogue with representatives of Muslim communities to find solutions to all the obstacles encountered by members who wish to engage in religious and cultural activities.

69. ECRI notes that there continues to be lack of adequate premises for religious and cultural activities as well as a cemetery where the deceased can be buried according to the Muslim rite. As concerns the former, representatives of one of the Muslim communities claim that in 2010, they were forced to stop using a prayer room for non-conformity with the planning regulations of the area, even though they had been assured of the conformity beforehand. According to the same representatives, no alternative cultural/prayer room was found in the following two years. Furthermore, no lawyer would present their grievances in court, thereby leaving them with a sense of exclusion from society. ECRI considers that the authorities should pursue the dialogue with this community in this connection, in order to ascertain the nature of their complaints and find an appropriate solution. In addition, ECRI notes that there have been no developments as concerns the construction of a mosque. According to representatives of the Muslim community, this is primarily due to insufficient funds to buy a plot of land and to carry out the necessary construction work. ECRI has been informed by the authorities that the Muslim community does not receive any financial contribution from the State, because it has failed to organise itself in an umbrella organization, *conditio sine qua non* for receiving such funds. ECRI recalls in this connection the judgment of the ECtHR in Hasan and Chaush v. Bulgaria, No. 30985/96 of 26 October 2000, finding that State action undertaken with the purpose of forcing a religious community to come together under a single leadership against its own wishes would constitute an interference with freedom of religion.

70. As regards the establishment of a Muslim cemetery in Liechtenstein, according to information provided by the authorities, in the course of 2011, certain municipalities<sup>27</sup> had reached a compromise according to which their cemetery chapels could be used for Muslim funerary rites. Only Vaduz had gone one step further, with its council agreeing in March 2009 to assign 45 grave sites, aligned

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<sup>27</sup> Notably Vaduz, Gamprin, Mauren, Eschen and Ruggell.

to Mecca and in unused ground, to Muslims. It appears that structural work is still required before these sites can be used and that the local authorities in Vaduz intend only to allow the sites to be used for Muslims from Vaduz. ECRI commends the positive steps that have been taken by the authorities and urges them to finalise a plan for a cemetery which will cater to the needs of Muslims living in the entire State.

71. ECRI recommends that the authorities do all that is necessary to make available to the Muslim community appropriate premises in which to practice their religion and culture. ECRI further recommends that the authorities finalise the project/s for a Muslim cemetery, in which deceased of Muslim faith from all parts of the State can be buried.

### **Jewish community**

72. The Jewish community in Liechtenstein numbers approximately 25 to 35 individuals and has not reported any antisemitic acts. ECRI has been informed that various initiatives have been launched in order to raise awareness on and to commemorate the Holocaust. In addition to the annual commemorative events of 27 January, since 2009 several history teachers receive training in teaching about the Holocaust at the international school of Yad Vashem in Israel and dedicate classes to this topic. Furthermore, various exhibitions, concerts and showings of films have been organised for pupils of schools. ECRI commends the authorities for these positive initiatives.

### **Asylum seekers and refugees**

73. ECRI considers that the manner in which a country treats asylum seekers is an indication of how welcoming it is vis-à-vis non-nationals. In this regards, ECRI notes that since its third report on Liechtenstein, there has been an increase in the number of asylum applications lodged in Liechtenstein. Notably, since January 2008, 516 applications have been lodged, eight persons have been granted refugee status and 33 applications have been rejected (12 of these, however, have qualified for “temporary admission”<sup>28</sup>). The peak in asylum applications was registered in connection with the arrival, in 2009, of a group of around 228 Eritrean and Somali asylum-seekers, who were brought to the country presumably by people smugglers. In 2012 there were 44 asylum seekers, refugees and persons granted “temporary admission” on the territory of Liechtenstein.
74. ECRI has been informed by the authorities that a new Law on Refugees will enter into force on 1 June 2012. The law, inter alia, has been adopted in order to adapt the legal framework to the new obligations stemming from Liechtenstein’s membership of the Schengen area and its implementation of the Dublin II<sup>29</sup> and EURODAC regulations (as of December 2011).
75. In its third report, ECRI recommended that the authorities ensure that asylum be granted to all those who fulfill the current legal conditions and to combat stereotypes and prejudice among the majority population against asylum

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<sup>28</sup> The status of the temporary admission is provided for under Articles 7a, 47, 49 and 60 of the Law on Refugees. It applies to persons who do not qualify for refugee status in Liechtenstein but who need protection for other reasons and therefore cannot be expelled. In practice, persons who are granted temporary admission receive an expulsion order, which is then stayed with an order of provisional admission. The status can be withdrawn if the situation in the home country has improved and return is possible. Under Article 60 of the Law on Refugees, a person who has been granted temporary admission can qualify for a temporary residence permit after a stay of five years in Liechtenstein. Once s/he is granted such permit, s/he falls under the scope of the Law on Foreigners. After a stay of ten years in Liechtenstein, a permanent residence permit can be granted (see also paragraph 80).

<sup>29</sup> See Council Directive 2004/83/EC of 29 April 2004.

seekers and refugees. In this connection, ECRI has received consistent reports that the majority of asylum claims submitted in Liechtenstein have been dismissed as inadmissible without an examination of the merits. Inadmissibility decisions have been justified by the authorities on the basis that: Liechtenstein can be reached only through Switzerland and Austria; it has signed readmission agreements with both of these countries; and the latter are considered under the Law on Refugees (in force up to 31 May 2012) to be safe third countries. With respect to this argument, ECRI notes that such inadmissibility decisions do not guarantee that asylum seekers have the possibility, in practice, to have their claim reviewed in substance in the respective third country, leaving them at risk of refoulement and exposure to risks of persecution or torture and other cruel, inhuman or degrading treatment. Most importantly, as of January 2012, ECRI wishes to recall that under the Dublin II regulations, Liechtenstein may no longer proceed with a blanket application of the safe-third-country criterion and consider most applications as inadmissible<sup>30</sup>. This regulation, in fact, lays down a hierarchy of criteria in order to determine the State responsible for examining the asylum application. The criterion of the first country whose territory has been crossed irregularly by the asylum seeker is only the fifth in priority (and is applicable only within a twelve month period from the illegal crossing).

76. ECRI is not aware of any specific measure which has been adopted by the authorities to assess the climate of opinion towards asylum seekers and refugees, or to combat stereotypes against the latter.
77. As concerns training of officials working in the admissibility stage of the asylum determination procedure, ECRI has received reports stating that they have not been adequately briefed on the reasons why asylum seekers flee their country and that on some occasions they have denied asylum seekers access to the asylum procedure (see also paragraph 75)<sup>31</sup>. ECRI has also been informed that the above-mentioned officials are not equipped to deal with requests from vulnerable women who have been victims of violence<sup>32</sup>. On the one hand, ECRI deems that training in this respect is of the utmost importance and expresses the hope that the validity of these criticisms will be examined. On the other hand, ECRI welcomes the fact that training on obligations stemming from the Dublin II Regulations has been organised.
78. ECRI recommends that the Liechtenstein authorities ensure that asylum seekers' applications are reviewed on their merits in accordance with the Dublin II Council Regulation. It further recommends that the authorities take measures to assess the climate of opinion towards asylum seekers and refugees, and to combat stereotypes against them.
79. ECRI recommends that the Liechtenstein authorities ensure that adequate training is provided for all of the officials involved in the asylum determination proceedings on: the realities which the asylum seekers may be fleeing; and the procedure to follow in the case of asylum requests from women who may have been victims of violence.

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<sup>30</sup> The authorities have informed ECRI that since Liechtenstein's accession to the Schengen area and its implementation of the Dublin II and EURODAC regulations on 19 December 2011, about 15 persons have had their asylum claims examined on the merit.

<sup>31</sup> The authorities have informed ECRI that every official working within the Asylum Division of the Immigration and Passport office receives specific training with the Federal Office for Migration in Switzerland and with the National Police. Periodically, these officials participate in additional trainings.

<sup>32</sup> The authorities, however, have stated that if there is any evidence of abuse, this category of asylum seekers is interviewed by female officers.

80. As concerns the status of temporary admission, as described above (footnote 28 of this report), ECRI is very concerned that persons who are not eligible to be recognised as refugees but who are, nonetheless, in need of international protection, are not granted a positive protected status – subsidiary protection. As mentioned above (see paragraph 73), although temporary admission enables persons to apply for a temporary residence permit after a five year stay, it legally amounts to a suspended expulsion order. In ECRI's view, in line with international law, as a matter of principle, it is important to introduce a separate status which recognises that there are substantial grounds for believing that the person concerned, if returned to his or her country of origin, would face a real risk of suffering serious harm and which grants specific rights to the persons concerned. Otherwise, the population may perceive this category of persons as failed asylum seekers who have no right to stay in the country.
81. ECRI strongly recommends that the Liechtenstein authorities introduce in the national legislation, alongside refugee status, a subsidiary form of protection covering all persons in need of international protection.
82. In its third report, ECRI recommended that the authorities of Liechtenstein allow asylum seekers to benefit from the presence of an NGO specialising in asylum issues as an observer during all interviews throughout the asylum procedure. In this respect, ECRI has been informed by civil society that NGOs are present only at the second interview carried out by the Foreigners and Passport Office; their view is that the content of the first interview would warrant the presence of an observer. As concerns free legal advice, the authorities have informed ECRI that it is provided to asylum seekers during the first phase of the procedure (until a decision on the application is taken by the Immigration and Passport Office) by an independent lawyer funded by the Immigration and Passport Office. The latter, however, cannot represent or assist him/her during the relevant interviews. Nonetheless, if the proceedings are complex (for instance, when the decision of the Immigration and Passport Office depends on the outcome of other proceedings, such as criminal proceedings), free legal assistance and representation (funded by the State) can be granted in the first phase of the procedure, provided that: the person does not have the necessary financial means. As concerns the appeal phase of the asylum procedure, a person who has been served with a negative decision can apply for financial legal assistance from the State, if h/she does not have the necessary financial means and it is clear that the appeal has some prospects of success. ECRI would like to stress that it is important that when free legal advice is given to asylum seekers during the first phase of the procedure, clear explanations be provided on how to apply for financial legal assistance in order to be represented at the appeals phase and also during the first phase, when applicable.
83. ECRI recommends that the authorities of Liechtenstein allow asylum seekers to benefit from the presence of an NGO specialising in asylum issues as an observer, at all relevant interviews of the asylum determination procedure.
84. ECRI further recommends that when free legal advice is given to asylum seekers during the first phase of the procedure, clear explanations be provided on how to apply for financial legal assistance in order to be represented at the appeals phase of the asylum procedure and also during the first phase, when applicable.

## Other non-nationals

85. On 1 January 2009, the new Foreigners Law and its associated ordinance entered into force. This law applies to non-nationals who are neither EEA member State nationals nor Swiss nationals (thereafter third country nationals) and who do not have a right to stay by virtue of having family links with one of the above categories of nationals; it introduces a number of restrictive provisions in the field of integration for this category of foreigners.
86. In its third report, ECRI recommended that the authorities refrain from introducing an “integration agreement” coupled with sanctions, raising their attention to the risk that this system would have a counterproductive effect on the integration process and increase the stigmatisation of non-citizens. It recommended instead that the authorities provide support to organisations with successful experience in providing German language training to non-citizens, and that such German language training be inexpensive and tailored as much as possible to the needs of the persons concerned.
87. ECRI notes that, under the new Foreigners Law, all third country nationals with a temporary residence permit<sup>33</sup> wishing to qualify for permanent residence must enter into an integration agreement<sup>34</sup>. The latter requires non-nationals to pass a German language examination at A2 level and a civics examination on the functioning and the foundations of the State. Furthermore, failure to comply with the integration agreement shall be construed as lack of willingness to integrate and represents, under Articles 26 and 48 of the Foreigners Law, a ground for revoking a permit to stay. Although, according to the authorities, there have been no instances of breach so far, ECRI is very concerned that the sanctions associated with failure to meet the agreements’ conditions will dissuade temporary residents from applying for permanent residence permits, out of fear that their temporary permit to stay will be revoked. Furthermore, ECRI notes that while knowledge of the host country’s language and civilisation certainly facilitates non-citizens’ participation in society and thus is an important factor in integration, integration measures should first and foremost be in the form of incentives, not sanctions. As concerns the assistance provided by the authorities to third country nationals in fulfilling the language requirements, vouchers<sup>35</sup> are provided partially to cover the costs associated with German language courses. The State may also grant additional financial help where needed. Although German language courses for non-citizens are organized by three associations, only the Association for Intercultural Education (VIB) caters for the needs of persons of lower income with low educational background (in particular women). Furthermore, it is the only association which organises classes on Saturdays in order to accommodate the needs of shift workers. ECRI has been informed by the relevant association that its courses will no longer be subsidised by the State<sup>36</sup> and that, as a result, it will no longer be in a position to offer German language courses as of June 2012. ECRI expresses its deep concern that, at a time where third country nationals’ right to stay is made conditional on the learning of the State language, funds to the only language association catering for the needs of persons who are socially more disadvantaged are being cut.

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<sup>33</sup> B residence permits are temporary and may be renewed on yearly basis. Persons holding a B residence permit who have resided in Liechtenstein for at least 5 years and who have passed the examinations described in paragraph 87 can obtain a permanent residence permit (C residence permit).

<sup>34</sup> The authorities have informed ECRI that each year, around 300 integration agreements are entered into.

<sup>35</sup> The vouchers are of a value of 200 CHF.

<sup>36</sup> Notably, the Government has made State funds conditional to an assessment of the association’s courses. VIB, however, has explained that the association would not be able to fund the costs associated to the assessment and that the State will not provide the needed assistance.

88. ECRI recommends that the Liechtenstein authorities abrogate the provisions in the Foreigners Law according to which failure to comply with the integration agreement shall be construed as lack of willingness to integrate and as a ground for revoking a permit to stay.
89. ECRI recommends that the Liechtenstein authorities provide suitable organisations with experience in German language training, which cater for the needs of socially disadvantaged non-nationals (for instance persons of lower income with low educational background - in particular women - and shift workers), with the financial assistance needed to carry out their activities.
90. As a result of the new Law on Foreigners, third country nationals are now required to learn German in their country of origin at level A1 for family reunification purposes. Furthermore, once in the country, the reunited family member must enter into an integration agreement and fulfil the requirements outlined in paragraph 87 (pass a language examination at A2 level and a civics examination). The above-mentioned requirements are of concern to ECRI. As regards the language requirements prior to arrival in Liechtenstein, persons who reside in rural areas in their country of origin and have little means may not be able to fulfil this condition. As regards imposing additional requirements once the family member/spouse is in the country, ECRI considers that while learning the language and integration must by all means be promoted, this should not happen at the price of separating families.
91. ECRI has been informed that an additional consequence stemming from the new Law on Foreigners, is that children of permanent residents are now eligible for a temporary (B permit), rather than a permanent residence permit (C permit) and may apply for the latter only once they have completed compulsory schooling (at the age of 15, see footnote 14). Representatives of civil society have voiced concerns that as the law stands, there is the risk that young persons who do not immediately find a job after having completed compulsory schooling will lose their temporary residence permit even though they have lived their whole life in Liechtenstein and their family resides in the country. ECRI shares these concerns and underlines that the above-mentioned case would be at variance with Article 8 of the ECHR<sup>37</sup> and with the UN convention on the Rights of the Child<sup>38</sup>. Furthermore, it urges the authorities to ensure that the legal status of children of permanent residents is not made less stable than those of the parents.
92. ECRI recommends that the Liechtenstein authorities amend the Law on Foreigners so that children already living in Liechtenstein of permanent residents are automatically granted permanent residence permits.
93. In its third report, ECRI recommended that the authorities of Liechtenstein find adequate solutions to problems faced by immigrant women in a particularly vulnerable situation. In this connection, the problem outlined in ECRI's third report (see paragraphs 64-66) is still relevant. Where the residence permit of an

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<sup>37</sup> Under Article 8 (Right to respect for private and family life) 1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

<sup>38</sup> Notably under its Article 8 (1) providing that: States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference; and under its Article 9 (1) providing that: States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child (...).

individual is linked to his/her marriage, he/she will receive an autonomous residence permit after five years of marriage and residence in Liechtenstein. As concerns, in particular, women who have suffered domestic violence and who have been married to a Liechtenstein national for less than five years, they must prove their victim status in order not to have their permit revoked upon dissolution of the marriage, before the five year term. A second exception to the revocation of the spouse's residence permit if the requirement of five years of marriage and residence is not fulfilled is if the spouse can prove that s/he is integrated in Liechtenstein society. In ECRI's view, this last exception should be regulated in greater detail so as not to open the door to arbitrary decisions.

94. ECRI recommends that the Liechtenstein authorities provide greater legal certainty concerning the cases in which a spouse whose residence permit is linked to his/her marriage and who does not fulfill the five year residence and marriage requirement is to be considered "integrated" in Liechtenstein society.

95. As noted in paragraph 40 of this report, a broad administrative reform has been launched which will affect, inter alia, the division of departmental responsibility on integration issues. According to the latest information, however, the issue of integration is dealt with by, on the one hand, the Foreigners and Passports Office of the Ministry of Home Affairs and its Integration Officer<sup>39</sup> and, on the other hand, the Equal Opportunities Office. According to the authorities, the former is responsible for the integration agreements and for funding activities which advance integration and the latter is responsible for coordinating integration issues. The authorities have highlighted, however, that there has been confusion over the division of responsibility (see paragraph 38). Furthermore, many of ECRI's interlocutors have criticised the Government's decision to place the Integration Officer, responsible for integration agreements, within the Foreigners and Passports Office, responsible for measures of control and for the enforcement of the law. ECRI endorses this criticism.

96. ECRI recommends 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.

97. In its third report, ECRI recommended that the authorities continue to implement an integration policy reflecting the idea of integration as a two-way process involving both the majority and minority communities. To this end, it recommended that they further develop the "promotion" aspect, in particular by adopting measures aimed at promoting respect for diversity and eradicating stereotypes. It also recommended that the authorities make their work against racial discrimination an integral part of their integration policy.

98. In March 2011, the Government presented an "integration concept" entitled Strength through Diversity (the Integration Concept) and an associated plan of measures which will be implemented in the next three years. In the Integration Concept, the authorities acknowledge the need to expand the "promotion" aspect of the integration policy further, as well as the goal to have long-term foreign residents participate in the economic, social and cultural life of society. An "integration conference" has been set up to serve as an exchange platform for politicians, the administration, civil society and the Commission on Integration Issues<sup>40</sup> - which is competent to discuss contributions to the

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<sup>39</sup> This position was created in September 2008. Its functions include: awareness-raising, advice and the conclusion and implementation of integration agreements. The Integration Officer also chairs the Commission of Integration Issues (see paragraph 98 of this report).

<sup>40</sup> In June 2011, the first integration conference took place with the participation of the Government, foreigners' associations and other non-governmental organisations. It is convened once per year.



Integration Concept<sup>41</sup>. The launch of the concept was accompanied by a campaign and series of lectures. The authorities have informed ECRI that out of the planned measures<sup>42</sup>, several have been implemented, notably: measures in early education and in parent education (see paragraph 46) and an awareness-raising campaign on diversity. In this connection, a booklet and a set of postcards, showing two persons living in Liechtenstein (one of whom is a migrant) under the slogan “Liechtenstein needs both”, were published<sup>43</sup>. ECRI welcomes these measures and urges the authorities to take additional awareness-raising measures with respect to diversity and against racial discrimination. It has also been informed by the authorities and civil society, that many measures of the Integration Concept have not been implemented and that confusion in the allocation of responsibilities as concerns integration has played a role in this.

99. In its third report, ECRI urged the authorities to confer eligibility and voting rights to long-term resident non-nationals in local elections. It also recommended that adequate mechanisms be set up allowing non-nationals to be consulted and participate actively in the political decision making process at national and local levels. ECRI has been informed by the authorities that no measures have been taken in this respect. Although in May 2011, a parliamentary question was submitted to the Parliament on the issue of non-nationals’ right to vote in local elections, the Parliament has refused to take this issue any further.

100. ECRI reiterates its recommendation to the authorities of Liechtenstein to confer eligibility and voting rights to long-term resident non-citizens in local elections and to set up adequate mechanisms allowing non-nationals to be consulted and to participate actively in the political decision making process at national and local levels.

## **VI. Conduct of Law Enforcement Officials**

101. Liechtenstein does not have a body independent from the police and the prosecuting authorities, which is competent for dealing with complaints against the police. According to the authorities, complaints against police officers for racial discrimination and racially motivated conduct must be lodged either with the police or directly with the prosecutor. Should the police receive a complaint, it is required to transmit it to the Prosecutor’s Office. ECRI has been informed that since ECRI’s third report, one complaint (which was subsequently withdrawn) has been lodged for racist police misconduct.

102. ECRI is of the view that the paucity of the complaints received should not necessarily be considered as signifying that there is no police misconduct, nor should it justify the absence of an independent mechanism for dealing with complaints against the police. In fact, experience shows that victims of police abuses do not generally have confidence in complaints mechanisms internal to the police, including complaints related to ECRI’s mandate. They are often also reluctant to bring cases before institutions which cooperate closely and on a daily basis with the police, such as the prosecution authorities. It is therefore

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<sup>41</sup> The authorities have informed ECRI that it meets 4 to 6 times a year.

<sup>42</sup> The following are some of the planned measures: sensitising parents on the importance of their children’s education; addressing difficulties in language learning among older migrants and migrants who are less educated; facilitating career entry through subsequent qualification; promotion of intercultural competence in the public administration; supporting women with a migrant background through qualified counselling; sensitising the population to value diversity; the set-up of a forum for interreligious dialogue; improving data collection in order to assess the situation of various vulnerable groups.

<sup>43</sup> The publications acknowledge that Liechtenstein has turned into a country of immigration and that two thirds of the jobs on the job market are filled by migrants; thus, immigration is vital. The post cards were displayed at the post offices, at regional movie theatres, and at the offices of central and local authorities.

necessary to create a system whereby a victim can bring a complaint in full confidence to an independent body which has developed expertise in the relevant field or which controls the activities of the police.

103. As concerns training in issues concerning racism and racial discrimination, please see paragraphs 22 and 63 of this report

## **VII. Monitoring Racism and Racial Discrimination**

104. In its third report, ECRI strongly encouraged the authorities to set up a system of data collection so as to evaluate the situation of different minority groups in Liechtenstein and determine the extent of manifestations of racism and direct and indirect racial discrimination (as per GPR No. 4 on national surveys on the experience and perception of discrimination and racism from the point of view of potential victims). It further recommended that they collect relevant information broken down by ethnicity, language, religion and nationality in different areas of policy with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group and that the gender dimension and possible double or multiple discrimination, be taken into consideration.
105. ECRI is pleased to note that, since its third report, the authorities have commissioned two studies analysing racism and/or human rights related facts and figures. The study on right-wing extremism has already been dealt with in the section on right-wing extremism. The second study, entitled Facts and Figures on Human Rights was published in 2011 and is to be updated on a yearly basis. It compiles data, analysis and charts on the population in the field of education, employment, health, housing and social assistance in Liechtenstein. It disaggregates this data, inter alia, by citizenship or regional origin<sup>44</sup>, but it does not do so on the basis of language, ethnicity and religion. In addition to the above, the 2010 population census has collected statistics on the religion, the main language and the country of birth of the interviewees.
106. As indicated above, one of the planned measures in the 2010 Concept of Integration is to review data collection in line with ECRI's above-mentioned recommendation, with a view to ensuring the availability of disaggregated statistical data which permit an assessment of the scale of direct and indirect discrimination of the various ethnic groups in the population in the various fields of life. The authorities, however, have informed ECRI that they are only working towards improving the statistics on education, notably by disaggregating the data according to language and citizenship or regional origin. Therefore, there are no plans to improve the collection of data in policy areas such as employment, health, housing and social assistance, where data is only disaggregated according to citizenship.
107. Moreover, the authorities have informed ECRI that the Law on Data Protection, in practice, hinders the disaggregation of statistics<sup>45</sup> and have voiced their concern that the disaggregation of personal data in a country of only

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<sup>44</sup> The following are the geographical regions most commonly used for the compilation of these statistics: i) Western Europe, Northern Europe and North America ; ii) Southern Europe ; iii) Eastern and South-Eastern Europe ; iv) Turkey, Middle East and Northern Africa; v) Africa; South America, Asia and Oceania.

<sup>45</sup> Under Article 26 of the Law on Data Protection, it is possible to collect personal data for purposes that are not directly related to persons, notably for scientific research, planning and statistics. Three conditions, however, must be fulfilled: a) The data must be made anonymous as soon as possible; b) the recipient of the data is allowed to forward data if this is approved by the owner of the data c) the results are published in a form that does not permit the identification of the persons concerned. In practice, the first condition limits the possibilities to compare data from different surveys given that it must be made anonymous as soon as possible. The third condition limits the possibilities to disaggregate data by several criteria (e.g. language, origin etc.) given the small population of the Liechtenstein.

35 000 inhabitants may lead to the identification of the persons concerned. Nonetheless, ECRI encourages the authorities to amend the law so as to make possible the collection of statistics when the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group have been ensured. This is needed in order to evaluate the situation of different vulnerable groups in Liechtenstein and determine the extent of manifestations of racism and direct and indirect racial discrimination in this connection.

108. ECRI recommends that the Liechtenstein authorities amend the Law on Data Protection so that collection of relevant information broken down by ethnicity, language, religion and citizenship in different areas of policy (such as employment, housing, health and education) is possible when due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group has been ensured.

### **VIII. Education and Awareness-Raising**

109. ECRI notes that, in addition to the campaign against extreme right-wing violence (see section on Right-Wing Extremism), an awareness-raising campaign on diversity was carried out between March and June 2011 under the 2010 Integration Concept (see paragraph 98). Awareness-raising campaigns on the life of refugees and asylum seekers were also organised, inter alia, by Caritas and UNHCR<sup>46</sup>. As stated in paragraph 39 of this report, regrettably, the activities planned by the EOO implementing the National Action Plan against Racism, including a campaign on religious diversity, a study on the situation of the Muslim population and an intercultural section in the communal library, were not carried out for dearth of resources. ECRI encourages the authorities to revive these important initiatives.

110. In its third report, ECRI recommended that the authorities raise school pupils' awareness about the need to combat racism, in particular racist violence, and right-wing extremism as per GPR No. 10 on combating racism and racial discrimination in and through school education.

111. According to the authorities, various projects on tolerance and the fight against xenophobia and violence are carried out at school; the courses on the Holocaust have been described in the subsection of this report dedicated to the Jewish community. As concerns training on issues of relevance to ECRI provided to teachers, the latter receive training on the Holocaust and may attend courses in the field of human rights organised by the Council of Europe and the European Union.

112. ECRI recommends that the authorities introduce, as a compulsory subject at school at all levels, a course on human rights focusing, inter alia, on the fight against racism and racial discrimination and cultural diversity. ECRI also recommends introducing specific training for teaching staff, focusing on human rights, diversity and the fight against racism and racial discrimination, in accordance with its GPR No. 10 on combating racism and racial discrimination in and through school education.

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<sup>46</sup> Notably on 17 December 2010, the event A Million stars was organised; it consisted in the lighting of candles that represented the wish to see light in the life of the refugees and asylum seekers. In this context, artists performed telling the life stories of asylum seekers and the hardships they went through. Furthermore, the UNHCR and the Flüchtlingshilfe Liechtenstein (the Refugee Help Centre) organised the World Refugee Day.



## INTERIM FOLLOW-UP RECOMMENDATIONS

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

- ECRI recommends that the Liechtenstein authorities clearly specify the respective responsibilities of the new Office for Social Affairs and of the Ombudsman's Office and that, in particular, they designate the latter as the national specialised body for combating racism and racial discrimination. It emphasises the need to ensure that this body is entirely independent and is responsible, inter alia, for: hearing and considering complaints, providing assistance to victims, initiating and participating in court proceedings, monitoring legislation and providing advice to legislative and executive authorities, raising awareness on issues of racism and racial discrimination among society and promoting policies and practices to ensure equal treatment, as per ECRI's GPR No. 2.
- ECRI strongly recommends that the Liechtenstein authorities abrogate the following provisions of the Law on Foreigners: 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.
- ECRI recommends 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.

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



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