

ECRI

European Commission against Racism and Intolerance
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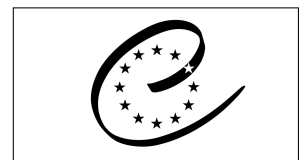
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European Commission against Racism and Intolerance

ECRI's country-by-country approach:

REPORT ON CYPRUS

Strasbourg, 9 November 1999



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, *inter alia*, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law¹, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.

¹ The report prepared by the Swiss Institute (ref: CRI (98) 80), covering relevant legislation in member States of the Council of Europe is available on the web site www.ecri.coe.int and, in hard copy, from ECRI's Secretariat.

- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

To date, six series of ECRI's country-specific reports have been made public, in September 1997, in March 1998, in June 1998, in January 1999, in March 1999 and in May 1999 respectively². A seventh series of country-specific reports was transmitted to the governments of the countries concerned in September 1999, and is thus now being made public³.

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

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all member States of the Council of Europe. With this seventh series of reports, for which the procedure was completed by September 1999, ECRI has concluded its reports on all member States of the Council of Europe⁴.

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

As from 1999, ECRI has begun a follow-up procedure to its country reports, examining what action governments may have taken on the proposals they contained, updating their contents generally and focusing on specific issues of concern in greater depth. Some 10 countries will be addressed annually in this way, over the period 1999-2002.

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² *The first six series comprise reports on Andorra, Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "The Former Yugoslav Republic of Macedonia", Ukraine and the United Kingdom.*

³ *Reports on Albania, Croatia, Cyprus, Moldova and Turkey.*

⁴ *Given that Georgia joined the Council of Europe recently (April 1999), the first report on this country will be produced later.*

For further information about the work of the European Commission against Racism and Intolerance (ECRI) and about the other activities of the Council of Europe in this field, please contact:

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Introduction

The Mediterranean island of Cyprus formed part of the Ottoman Empire from 1571 to 1914 following a long period under Venetian rule. In 1878 it was placed under British Government administration and was annexed by the latter in 1914 and formally declared a British Crown Colony in 1925. The Republic of Cyprus became independent on 16 August 1960 with the entry into force of three major treaties and the bi-communal Constitution of 1960, originating in the Zurich Agreement of 11 February 1959 between Greece and Turkey and the London Agreement of 19 February 1959 between Greece, Turkey and the United Kingdom.

The 1960s and early 1970s was a period of tensions between the Greek and Turkish Cypriot communities. A movement for union with Greece, Enosis, and a coup d'Etat in 1974, set in motion by the military junta in Greece at that time, were followed by a Turkish military intervention. The Greek Cypriot and Turkish Cypriot communities, after massive internal displacement, now in the main live in different parts of the island, and the northern part of the island - about 37% of the whole territory - is not presently under the control of the Cypriot government. A UN buffer zone separates the two areas.

UN Security Council Resolution 939/1994 reiterates that the maintenance of the status quo is unacceptable and reaffirms its position that "a Cyprus settlement must be based on a State of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities as described in the relevant Security Council Resolutions, in a bi-communal and bi-zonal federation, and that such a settlement must exclude union in whole or in part with any other country or any form of partition or secession". The situation between the two communities remains tense, despite the specific agreements signed by the leaders of the two communities in 1977 and 1979⁶ and in spite of the constant efforts of the international community to solve the problem. In this connection, reference should be made to the declarations and initiatives of the Secretary-General of the United Nations⁷, and to the proposals of the Parliamentary Assembly of the Council of Europe⁸.

⁵ **Note:** *Any development subsequent to 27 November 1998 is not covered by the following analysis and is not taken into account in the conclusions and proposals.*

⁶ *These agreements provide for the setting up of a bi-community federation, respect for the human rights of all Cypriots and the exclusion of complete or partial union with any other state or any form of sharing.*

⁷ *See, for example, the Secretary-General's report on his mission of good offices to Cyprus (UN Security Council Document S/1996/467)*

⁸ *See for example, Parliamentary Assembly Recommendation 1259 (1995) and Resolution 1054 (1995)*

The current situation prevents ECRI from covering the position of populations living in the northern part of the island as regards discrimination. This part of the territory is currently not under the effective control of the Cyprus government, to which the present report is addressed.

In the framework of its mission, ECRI is concerned at reports of racism and discrimination in this part of the island, particularly reports concerning restrictions of the rights of Greek Cypriots and manifestations of intolerance towards them.

ECRI deeply regrets the situation as a whole and hopes that solutions will be identified in the near future. It notes that problems connected with the political situation on the island are comprehensively dealt with in numerous international fora, and in particular within the framework of the United Nations, of the European Parliament, and of the Council of Europe's Parliamentary Assembly.

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

- the need to promote a climate of tolerance to restore confidence and counter prejudices between the Greek Cypriot and Turkish Cypriot communities;
- incidents of police ill-treatment of detainees of non-Greek Cypriot origin;
- specific problems faced by certain groups of non-citizens;
- certain problems of intolerance towards minority religious groups.

I. LEGAL ASPECTS⁹

A. International legal instruments

1. Cyprus has ratified all the relevant international legal instruments in the field of combating racism and intolerance. ECRI notes that although the European Charter for Regional or Minority Languages was ratified by Law N° 39 (III) of 1993, it is not yet operational, and encourages the Cypriot authorities to take the necessary steps to render this Charter operational in Cyprus.

B. Constitutional provisions

2. The Constitution resulted from the Zurich Agreement of 1959 establishing the independent Republic of Cyprus. The functioning of the Government is based on the Constitution and the three treaties. It establishes a distinction between the two ethnic Cypriot communities and gives priority to community rights above individual rights. Thus, all Cypriot citizens are deemed to belong to either the Greek community - if they are of Greek origin, share the Greek cultural traditions or are members of the Greek-Orthodox Church - or the Turkish community - if they are of Turkish origin, share the Turkish cultural traditions or are Moslems - (Constitution, Article 2 paras 1-2). The Constitution is based on the premise that each community will think, vote and act in line with community feelings and interests. Consequently, the three religious groups of the Maronites, Armenians and Roman Catholics must opt to belong to one of the two communities in the Republic recognised by the Constitution (Constitution, Article 2.3). The three groups in question have chosen to belong to the Greek community. Article 6 of the Constitution provides that no law or decision of the bodies of the State shall discriminate against either of the two Communities or any person as a person or by virtue of being member of a Community.

3. Article 28 para 1 of the Constitution lays down that all persons are equal before the law, the administration and justice. Article 28 para 2 provides that every person shall enjoy all the rights and liberties provided for in the Constitution without any direct or indirect discrimination against any person on the grounds of their community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class or on any other ground whatsoever unless there is express provision to the contrary in the Constitution.

4. Religious freedom is protected by the Constitution, which guarantees members of religious groups - the most prominent of which are the Greek Orthodox, Moslem, Maronite, Armenian and Catholic faiths - the same rights as those enjoyed by everyone. No-one should be affected in the enjoyment of their rights by reason of professing a particular religion. However, there seems to be a gap between the law and practice in this field (see paragraph 21).

⁹ *An overview of legislation in Cyprus in the field of combating racism and intolerance is provided in CRI (98) 80, prepared for the ECRI by the Swiss Institute of Comparative Law (see bibliography).*

C. Criminal law provisions

5. For the purposes of giving effect to the provisions of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), Law no. 11 (III)/1992 amended Law no. 12/1967. Section 2A lays down legal measures to combat racial discrimination, and prohibits intentional incitement to acts causing racial discrimination, violence or racial hatred, membership of any organisation advocating racial discrimination, expressing ideas which constitute an insult to a person or group of persons by reason of their racial or ethnic origin or religion, and refusal to provide goods or services to a person solely because of his or her racial or ethnic origin or religion. The maximum sentence is two years' imprisonment.

6. It appears that no cases have been brought in the Republic of Cyprus concerning racial discrimination. ECRI feels that the implementation of the relevant legislation should be carefully monitored to ensure that it is being used where necessary. Furthermore, ECRI wonders whether the wording of the law might perhaps be improved in some respects, to facilitate its implementation.

7. Legislation on the public service (Criminal Code, Article 105) makes discrimination committed by any public servant in the course of his or her duties an offence. The maximum sentence is two years' imprisonment. This is the practical application of the principle contained in Article 28 of the Constitution which stipulates that every person shall enjoy fundamental rights and freedoms without any direct or indirect discrimination on the ground of community, race, religion or language.

D. Civil and administrative law provisions

8. The Republic of Cyprus does not have a body of civil and administrative law provisions in the field of combating racism and discrimination. ECRI feels that consideration should be given to the introduction of a body of law in this field covering areas such as housing and employment.

9. It should be noted that, since 1963, there have been no elections to fill the governmental posts designated for representatives of the Turkish Cypriot community as provided for in the 1960 Constitution. Cypriot citizens of this community currently neither vote nor stand for election to the House of Representatives. The small Maronite, Armenian and Roman Catholic communities elect non-voting representatives to the House of Representatives from their respective communities and vote in elections to choose voting members.

E. Specialised bodies

10. Although the Republic of Cyprus has no specialised body to combat racism and intolerance, there is an Ombudsman whose duties include investigating complaints lodged by individuals claiming that the authorities have violated their individual rights (Law N° 3/91 on the Commissioner for Administration). Complaints of ill-treatment by the police can be investigated by the Ombudsman (Law 98 (I)/94) and also by investigators appointed by the Attorney General of the Republic who is, under the Constitution, an independent officer and cannot be removed from his office.

11. A National Institution for the Protection of Human Rights has a general mandate to keep under surveillance the respect for human rights in Cyprus. This independent body comprises a broad representation from the public and private sector. One of the most important functions of this body is to hear and investigate complaints from migrant workers and other non-citizens. It also promotes proposals for the amendment of legislation where necessary.

12. ECRI refers to its general policy recommendation on specialised bodies to combat racism and intolerance at national level, and encourages the Cypriot authorities to ensure that the Ombudsman or the National Institution for the Protection of Human Rights is given particular responsibility for dealing with problems of racism and intolerance.

13. A Presidential Advisor on Minorities has the role of facilitating complaints submitted by members of minority groups and of co-ordinating general policies in this respect.

II. POLICY ASPECTS

G. Reception and status of non-citizens

14. There are many non-citizens in the Republic of Cyprus, the majority of whom come from Europe, the Middle East and south-east Asia, compensating for the shortage of labour in certain sectors of the Cypriot economy. Some problems of discrimination seem to exist towards women of East or South Asian origin who enter the Republic of Cyprus to work as maids. There are reports of inhuman treatment towards some of these women on the part of their employers and unjustified dismissals which lead to repatriation. Apparently, many such women are afraid to complain to the authorities and those who file charges are liable to be dismissed and repatriated. It is also reported that women of East Asian or Eastern European origin have been forced into prostitution.

ECRI feels that the authorities should further investigate such reports thoroughly and take measures to ensure that the rights of these non-citizen women working in Cyprus are not violated: for example, by providing information in a range of languages on the rights of non-citizens and by encouraging and assisting such women to come forward. In this respect, ECRI notes that a number of investigations, ordered by the Council of Ministers through the Attorney General's office, have been carried out, and that a committee, with ministerial representation, has been set up to investigate trafficking in

and prostitution of women. In the years 1988 to 1992, 25 cases concerning trafficking in women were presented before the courts, as a result of which 20 persons were convicted.

15. ECRI notes with concern that Cypriot women are denied the right to pass citizenship on to their children if they are married to non-citizens. Only Cypriot males may transmit citizenship to their children automatically or obtain rapid naturalisation for their spouses. ECRI feels that this situation, which leads to the denial of citizenship to children with a legitimate right to citizenship by descent, should be remedied. ECRI takes note that an amendment to this law is currently underway.

- *Asylum-seekers and refugees*

16. There is not at present any specific legislation dealing with the reception of asylum-seekers and the granting of refugee status. Cases of asylum are referred to the local offices of the UN High Commissioner for Refugees for evaluation: successful applicants are given permission to remain in the Republic of Cyprus and are granted temporary work permits, although permanent resettlement rights are not generally granted on the grounds that the authorities already state that they have to deal with numerous displaced persons from the 1974 military intervention.

A draft law on the status of asylum seekers and refugees has been prepared but has not yet been adopted by Parliament. This draft law provides for the creation of an authority responsible for refugee questions. ECRI considers that this draft law should be adopted by Parliament as soon as possible.

- *Detention of non-citizens*

17. ECRI notes with concern reports that non-citizens being held under the Aliens and Immigration Law are kept in police detention facilities, together with criminal suspects. Furthermore, it appears that non-citizens refused entry to the country are being held at Larnaca airport in very restricted facilities.¹⁰ ECRI feels that these issues should be reviewed. Furthermore, non-citizens in these situations should be provided with clear information in a range of languages about their rights and be dealt with by appropriately-trained staff.

H. Education and training

18. Initiatives have been taken by the Republic of Cyprus in the field of education to combat prejudices which can result in racial discrimination. Each year, all primary and secondary schools and higher education establishments celebrate several events and anniversaries closely linked to the UN system, providing an opportunity to make the young people more aware of the aims and principles of that organisation. The Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All

¹⁰ Cf report on the visits to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (see bibliography)

Forms of Racial Discrimination and the European Convention on Human Rights also give rise to various events.

19. As regards the sometimes tense situation between the Greek Cypriot and Turkish Cypriot communities, ECRI stresses that particular efforts should be made, especially in the fields of education and the media, to avoid representations which may exacerbate feelings of intolerance or prejudices. Moreover, politicians and religious leaders bear particular responsibility for addressing this question in a constructive and balanced fashion.

- *Training of police*

20. Education in human rights is included in the curriculum of police academies in the Republic of Cyprus. However, several cases have been documented of the use of force and ill-treatment of individuals, often of non-Greek Cypriot origin, by members of the police forces. There have also been reports that members of the Turkish Cypriot community in the Republic of Cyprus have been subject to police surveillance and harassment. Any allegations of abuses on the part of the police should be investigated by an independent investigative body and the perpetrators punished. Furthermore, specialised training should be provided to combat intolerance and discrimination on the part of police officers at all levels.

I. **Other areas**

- *Religious intolerance*

21. Although freedom of religion is guaranteed by the Constitution, there appear to exist some problems of intolerance towards certain religious groups. For example, Mormon missionaries, although they have the right to proselytise, are closely monitored by the Orthodox Church and have on occasion been called to police offices for interrogation about their religious beliefs. ECRI stresses that such expressions of religious intolerance and discrimination should not be permitted.

22. Several conscientious objectors who had refused military service on the grounds of their religion had been imprisoned. ECRI welcomes the modification to the law on military service which permits conscientious objectors to fulfil their obligations by performing civil service.

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General data as supplied by national authorities

For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Cypriot government on 13 July 1994.

ECRI accepts no responsibility for the data below.

621,000 Greek Cypriots (83.9%); 2,500 Armenians (0.4%); 4,500 Maronites (0.6%); 700 Latins (0.1%); 89,200 Turkish Cypriots (12%)

22,300 (3%) foreign residents, mainly British, other European, Lebanese, other Arabs and Asian

* *Population of the Republic of Cyprus: 741 000 (1 January 1997). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)*

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