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# Liechtenstein

## ***Criminal Code, Section 283 - Racial Discrimination***

I. A person shall be punished with imprisonment of up to two years if he or she

- 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) organizes, promotes, or participates in propaganda actions 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;

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5) publicly denies, grossly plays down the harm 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 persons on the basis of race, ethnicity or religion;

7) participates as a member in an association whose activities consist of promoting and inciting racial discrimination.

II. A person shall be punished in the same manner, if the person

1) manufactures, imports, stores or distributes, for the purposes 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.

Criminal Code, Section 321 Genocide : Commission of certain acts with the intention of wholly or partially destroying a religiously, racially, ethnically or nationally distinct group as such. The relevant acts are: killing members of the group; inflicting serious physical or mental injury on its members; subjecting the group to living conditions likely to cause death to all members or a part of the group; imposing measures designed to prevent births within that group; or forcibly transferring children of the group to another group.

Criminal Code, Section 33/5 Aggravating circumstance (for any kind of crime) if the perpetrator has acted out of racist, xenophobic or other particularly reprehensible motives

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# Case Law

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Décision 1 JG 2005.32 à 49 du **02.08.2006**  
 Cour : **Oberste Gerichtshof (OGH)** (dernière instance)  
 Liechtenstein

### **Leitsatz 1a**

Der Aufschiebung des Ausspruches einer Strafe entspricht selbst bei der gegebenen "Mittelkriminalität" dem Geist und Zweck der Bestimmung des § 8 JGG, zumal durch die Anordnung der Bewährungshilfe und die dem Bewährungshelfer erteilten Weisungen die Hilfestellung zur Personalitätskonsolidierung des Beschuldigten gegeben wird.

### **Leitsatz 1b**

Im Jugendstrafrecht hat die Spezialprävention Vorrang vor der Generalprävention, so dass auch im vorliegenden Fall durch den Schuldspruch und die Einziehung der beschlagnahmten Gegenstände eine ausreichende generalpräventive Wirkung erzielt wird.

### **Sachverhalt**

Vorauszuschicken ist, dass die Revision von der StA insofern nur wegen des Ausspruches über die Strafe ergriffen wird, als vom Berufungsgericht der Ausspruch einer Strafe gem § 8 Abs 1 JGG für eine Probezeit von drei Jahren vorläufig aufgeschoben wurde. Die nachfolgenden Ausführungen beschränken sich daher auf eine geraffte Darstellung des Sachverhaltes und des bisherigen Verfahrensablaufes und vor allem auf jene Ausführungen der Vorinstanzen, die für die Strafbemessung von Bedeutung sind.

Das Land- als Jugendgericht fällte am 21.02.2006 folgenden Urteilsspruch:

"Der Angeklagte NN ist schuldig, er hat in Nendeln und an anderen Orten im Inland zwischen dem 23.06.2003 und dem 13.11.2004

1. dadurch, dass er in den von ihm bewohnten Räumlichkeiten im Anwesen in Nendeln eine Hakenkreuzfahne (schwarzes Hakenkreuz im weissen Kreis auf rotem Hintergrund) und eine Fahne mit der Doppelsigrune (weisse Doppelsigrune auf schwarzem Grund) aufgehängt hat, welche auch von ausserhalb des Anwesens sichtbar waren, öffentlich Ideologien verbreitet, die auf die systematische Herabsetzung oder Verleumdung der Angehörigen einer Rasse oder Religion gerichtet sind;

2. Tonaufnahmen, nämlich die CD's "Geheime Reichssache" der Gruppe "Kommando Freisler", "Northim Live Vol. 2 - der Terror geht weiter", "Das Reich kommt wieder" der Gruppe "Landser", "Unter dem Hakenkreuz" der Gruppe "Endlösung", "Komm zu uns! - Stellt Freiwillige ein!" der Gruppe "Sturm 18", "Wilde Horden" der Gruppe "Radikahl", "A mighty lion roars" mit dem Titel "Ein ganzes Volk" der Gruppe "Hassgesang" sowie "NSDAP" der Gruppe "Macht und Ehre", die eine Rassendiskriminierung iS von § 283 Abs 1 StGB zum Inhalt haben, zum Zwecke der Weiterverbreitung eingeführt, gelagert und in Verkehr gebracht, indem er diese CD's an eine Vielzahl (ca 20) namentlich nicht bekannte Personen unentgeltlich weitergab oder verkaufte und indem er für eine Vielzahl (ca 20) namentlich nicht bekannte Personen Sammelbestellungen dieser CD's organisierte und durchführte, wobei er die CD's jeweils bei ausländischen Anbietern via Internet bestellte und ihm diese dann im Postwege geliefert wurden;

3. pornographische Bildaufnahmen, die sexuelle Handlungen mit menschlichen Ausscheidungen und Gewalttätigkeiten zum Inhalt haben, und zwar die Filme "Lesbian Extreme XXX" und "La Blue Girl vol 3 & 4", indem er diese in dem von ihm benutzten PC Maxdata, welcher einer Vielzahl (ca 20) von Benützern zur Verfügung stand, gespeichert belies, diese Filme überlassen und zugänglich gemacht;

4. pornographische Bildaufnahmen, die sexuelle Handlungen mit Gewalttätigkeiten zum Inhalt haben, und zwar den Film "La Blue Girl vol 3 & 4", welcher in dem von ihm benutzten PC Maxdata gespeichert war, besessen;

5. Waffen, nämlich zwei schwarz lackierte hölzerne Schlagstöcke, besessen, obwohl ihm dies als Jugendlicher unter 18 Jahren untersagt war.

Der Angeklagte NN hat hiedurch

zu 1 das Vergehen der Rassendiskriminierung nach § 283 Abs 1 Z 2 StGB;

zu 2 das Vergehen der Rassendiskriminierung nach § 283 Abs 2 Z 1 StGB;

zu 3 das Vergehen der Pornographie nach § 218a Abs 3 StGB;

zu 4 das Vergehen der Pornographie nach § 218a Abs 4 StGB und

zu 5 das Vergehen nach Art 20 Abs 1 lit c WaffG begangen.

Der Angeklagte NN wird hiefür zu 1 bis 5 nach § 283 Abs 1 StGB unter Anwendung von § 28 StGB und unter Bedachtnahme auf § 6 Abs 2 JGG zu einer Freiheitsstrafe von drei Monaten sowie gem § 305 Abs 1 StPO zum Ersatz der mit CHF 1500.- bestimmten Kosten und Gebühren des Strafverfahrens verurteilt.

Gemäss § 43 Abs 1 StGB wird der Vollzug der verhängten Freiheitsstrafe unter Bestimmung einer Probezeit von drei Jahren bedingt nachgesehen.

Gemäss § 32 JGG, § 308 Abs 1 StPO werden die Kosten und Gebühren des Strafverfahrens für uneinbringlich erklärt.

Gemäss § 26 StGB werden folgende beschlagnahmten Gegenstände eingezogen: Die CD's "Das Reich kommt wieder", "Unter dem Hakenkreuz", "Komm zu uns! - Stell Freiwillige ein!", "Wilde Horden", "A mighty lion roars" sowie "NSDAP"; die zwei schwarz lackierten hölzernen Schlagstöcke; die Festplatte des PC Maxdata; die Hakenkreuzfahne und die Fahne mit der Doppelsigrune.

Gemäss Art 52 Abs 3 JGG werden die beschlagnahmten weiteren 219 Stück CD's eingezogen."

Hinsichtlich der diesem Schuldspruch zugrunde liegenden Feststellungen und der vom Erstgericht vorgenommenen Beweiswürdigung und rechtlichen Beurteilung wird auf dessen Ausführungen auf den Seiten 6 bis 21 seines U verwiesen.

Zur Strafbemessung führte das Erstgericht Folgendes aus:

"Bei der Strafzumessung ist erschwerend das Zusammentreffen von insgesamt fünf Vergehen zu werten (§ 33 Z 1 StGB), mildernd hingegen die Unbescholtenheit (§ 34 Z 2 StGB) und weiters der Umstand, dass er sich zumindest hinsichtlich eines Teils der ihm zur Last gelegten Straftaten, nämlich hinsichtlich des Vergehens der Rassendiskriminierung nach § 283 StGB, geständig gezeigt hat (§ 34 Z 17 StGB). Bei einem Strafrahmen von Freiheitsstrafe bis zu einem Jahr (§ 283 Abs 1 StGB iVm § 6 Abs 2 JGG) erachtet das Gericht beim unbescholtenen Angeklagten eine Freiheitsstrafe von drei Monaten, sohin im mittleren Bereich des ersten Drittels des zur Verfügung stehenden Strafrahmens, für schuld- und tatangemessen. Von der Möglichkeit eines bedingten Strafausspruches gem § 8 Abs 1 JGG oder von der Umwandlung der verhängten Freiheitsstrafe in eine Geldstrafe gem § 37 StGB ist schon aus generalpräventiven Erwägungen Abstand zu nehmen, und zwar insbesondere wegen der dem Angeklagten zur Last liegenden Vergehen der Rassendiskriminierung nach § 283 Abs 1 Z 2 StGB und § 283 Abs 2 Z 1 StGB. Es gilt mit Bezug insbesondere hierauf der Allgemeinheit vor Augen zu führen, dass rassendiskriminierende Taten von der Art und Schwere, wie sie dem Angeklagten zur Last liegen, in einem freiheitlichen und demokratischen Rechtsstaat nicht geduldet und mit empfindlichen Strafen geahndet werden. Weiter sprechen aber auch spezialpräventive Erwägungen gegen eine Anwendung des § 8 Abs 1 JGG oder des § 37 StGB. NN scheint nämlich hinsichtlich der Unrechtmässigkeit seines Tuns, jedenfalls sofern es die ihm zur Last liegenden Vergehen der Rassendiskriminierung nach § 283 StGB anbelangt, in keinsten Weise schuldeinsichtig zu sein, gibt er doch selbst zu, nunmehr CD's rechtsextremer Bands, beinhaltend unter Umständen wieder Lieder mit rassendiskriminierenden Texten, nun einfach nicht mehr in den USA, sondern in Deutschland, wo die Gesetzgebung insofern strenger ist, im Rahmen von Sammelbestellungen zu ordern. Darin manifestiert sich die Haltung des NN, auch weiterhin von seinem rassendiskriminierenden Tun jedenfalls nicht unbedingt Abstand nehmen zu wollen. Allerdings erachtet das

Gericht weiter die Voraussetzungen des § 43 Abs 1 StGB für gegeben, um dem unbescholtenen Angeklagten die über ihn verhängte dreimonatige Freiheitsstrafe unter Bestimmung einer angemessenen Probezeit von drei Jahren bedingt nachzusehen."

Gegen dieses U erhob der Angeklagte Berufung wegen Nichtigkeit nach § 221 StPO und wegen des Ausspruches über die Schuld und die Strafe.

Mit U vom 31.05.2006 gab das OG der Berufung wegen Nichtigkeit und Schuld keine Folge, jedoch der Berufung wegen des Ausspruches über die Strafe und änderte das U des Erstgerichtes dahingehend ab, dass der Ausspruch einer Strafe gem § 8 Abs 1 JGG für eine Probezeit von drei Jahren vorläufig aufgeschoben wird. Gleichzeitig ordnete es für die Dauer eines Jahres die Bewährungshilfe an und trug dem Bewährungshelfer auf, mit NN insbesondere die Thematik Nationalsozialismus und Rassendiskriminierung zu bearbeiten und dem Jugendgericht halbjährlich hierüber zu berichten.

Zur Strafbemessung führte das Berufungsgericht Folgendes aus:

"Im vorliegenden Fall sind entgegen der Bestimmung des § 20 JGG keine besonderen Jugenderhebungen beantragt und vom Erstgericht durchgeführt worden, so dass zu den Lebens- und Familienverhältnissen des Beschuldigten, zu seiner Entwicklung und zu allen anderen Umständen, die zur Beurteilung seiner körperlichen, geistigen und seelischen Eigenart dienen können, keine Ermittlungsergebnisse vorliegen. Es liegen damit keine Verfahrenserkenntnisse vor, die Rückschlüsse darauf zuließen, wie der Beschuldigte dazugekommen ist, rassendiskriminierende und mörderische Botschaften (wer Texte verbreitet, dass Menschen aufgehängt, kaltgemacht oder verheizt werden sollen etc, propagiert Mord) gekommen ist, und welche Defizite in der Erziehung, in der Ausbildung und in der menschlichen Humanität hierfür ursächlich waren oder sind bzw dazu beigetragen haben.

Zur Vermeidung einer weiteren Verfahrensverzögerung hat das Berufungsgericht von der Einholung solcher Erhebungen Abstand genommen und den Beschuldigten ergänzend vernommen, wobei dieser im Wesentlichen angegeben hat, sich mit diesen Inhalten nicht zu identifizieren und geschichtlich wenig über die Zeit des Nationalsozialismus zu wissen. In der Realschule sei mit der Behandlung dieser Zeit eben erst - 14 Tage vor der Berufungsverhandlung - begonnen worden. Konfrontiert mit konkreten Textstellen hat er sich dahin verantwortet, dass er sich "nicht viel gedacht" habe.

Es mag sein, dass in diesen Angaben des Beschuldigten eine ordentliche Portion an Schutzbehauptungen steckten und es ist schwer vorstellbar, dass ein knapp 17-jähriger Schüler im Rahmen seiner Schulausbildung über diese Zeit bislang nichts oder fast nichts erfahren haben soll. Wie auch immer hier die Verhältnisse tatsächlich sein mögen erscheint es angebracht, auf das Verhalten des jugendlichen Beschuldigten mit Massnahmen zu reagieren, die ihn zu einer inhaltlichen Auseinandersetzung mit jenen Botschaften nötigen, die er mehr oder weniger gedankenlos verbreitet. Bei einem Jugendlichen, der wenig Ahnung und Kenntnis von der historischen Betroffenheit der zivilisierten Welt gegenüber den Verbrechen des Nationalsozialismus hat, scheint es zielführender, in ihm Wissens- und Nachdenkprozesse auszulösen, die auch bei ihm zu der Erkenntnis führen, dass er sich mit der Propagierung von rassendiskriminierenden Aussagen und der Verherrlichung nationalsozialistischer Verbrechen ausserhalb der Rechtsordnung stellt, als mit Freiheitsstrafen auf solche Verhaltensweisen zu reagieren.

Das Berufungsgericht hält es daher für angebracht, den Ausspruch einer Strafe wegen der dem Beschuldigten zu Recht angelasteten, schwerwiegenden Delikte auf eine Probezeit von drei Jahren vorläufig aufzuschieben und gleichzeitig für die Dauer eines Jahres Bewährungshilfe anzuordnen, wobei es Sache des Bewährungshelfers sein wird, in Zusammenarbeit mit den in Betracht kommenden Stellen des Landes ein Programm aufzustellen, das den Beschuldigten zu einer inhaltlichen Auseinandersetzung mit der Thematik Rassendiskriminierung, Nationalsozialismus und Gewalt zu konfrontieren und ihm dadurch eine Hilfestellung zu bieten, die bei ihm bestehenden Defizite im Wissen und in der Entwicklung und in der Humanität auszugleichen. Für die Bearbeitung dieser Thematik mit Hilfe der Bewährungshilfe erscheint ein Jahr ausreichend."

Mit Revision zum OGH bekämpft nun die StA dieses zweitinstanzliche U insofern, als der Ausspruch einer Strafe gem § 8 Abs 1 JGG aufgeschoben wurde. Beantragt wird die Wiederherstellung des erstinstanzlichen U.

Der OGH gab der Revision keine Folge.

### Aus der Begründung

Die Revisionswerberin steht auf dem Standpunkt, dass der Ausspruch der Strafe sowohl aus generalpräventiven Erwägungen, wozu Ausführungen des Berufungsgerichtes überhaupt fehlen, als auch aus spezialpräventiven Gründen notwendig sei, da der Angeklagte nicht schuldeinsichtig sei, da er weiterhin CDs mit rassendiskriminierenden Texten bestellt habe.

Dazu hat der Senat des OGH erwogen:

Nach § 8 Abs 1 JGG ist der Ausspruch der wegen einer Jugendstraftat zu verhängenden Geld- oder Freiheitsstrafe für eine Probezeit von 1 bis zu 3 Jahren vorläufig aufzuschieben, wenn anzunehmen ist, dass der Schuldpruch alleine oder iVm den im Jugendgerichtsgesetz angeführten Massnahmen, der Erteilung von Weisungen oder Auflagen oder der Bestellung eines Bewährungshelfers genügen werde, um den Rechtsbrecher von weiteren strafbaren Handlungen abzuhalten, und es nicht des Ausspruches der Strafe bedarf, um der Begehung strafbarer Handlungen durch andere entgegenzuwirken.

Diese Gesetzesbestimmung entspricht im Wesentlichen der Bestimmung des § 13 Abs 1 des österreichischen Jugendgerichtsgesetzes vom 20.10.1988 (auch § 13 öJGG 1961), so dass im vorliegenden Fall durchaus auf die österreichische Lehre und Praxis der Handhabung dieser Gesetzesbestimmung zurückgegriffen werden kann.

Danach sollen Strafsanktionen nur dort zur Anwendung gelangen, wo gelindere Mittel nicht genügen (sogenanntes Ultima-Ratio-Prinzip). Dies gilt vor allem für die Jugendgerichtsbarkeit, bei der verstärkt zu prüfen ist, ob die Verhängung einer Strafe spezialpräventiv notwendig ist, oder ob nicht auch die dem Gericht trotz des Schuldpruches offenstehenden Möglichkeiten, wie etwa bestimmte Hilfestellungen zur Persönlichkeitskonsolidierung (zB Weisungen, Bewährungshilfe) im Hinblick auf eine künftige Legalbewährung ausreichend erscheinen. Die Erfahrung hat gezeigt, dass derartige Massnahmen eher zur Stabilisierung der Lebenssituation des Täters führen können, während repressive strafrechtliche Reaktionen eher behindern. Der Zweck des Institutes der bedingten Verurteilung nach § 8 JGG (§ 13 ÖJGG - Schuldpruch unter Vorbehalt der Strafe) liegt daher darin, dass anstelle der Strafe andere, nicht diskriminierende Massnahmen Platz greifen sollen (EvBl 1956/320), wobei in jedem einzelnen Fall zu prüfen ist, ob der Ausspruch der Strafe ohne Nachteil für den Rechtsbrecher und die Allgemeinheit (Generalprävention) unterbleiben kann (s zB OLG Innsbruck vom 09.12.1981, 3 Bs 384/81; ZVR 1993/116; Dr Christian Grafl, Jugendliche Tatverdächtige - ihre Sanktionierung, ÖJZ 1988/519; Wolfgang Bogensberger, Das JGG, ÖJZ 1991/268; Udo Jesionek, Die Reform des Jugendstrafrechts, ÖRZ 1983, 219).

Trägt man diesen grundsätzlichen Überlegungen Rechnung, so kann man - daher auch der OGH - im vorliegenden Fall dem OG nur beipflichten. Der Aufschub des Ausspruches einer Strafe entspricht selbst bei der gegebenen "Mittelkriminalität" dem Geist und Zweck der Bestimmung des § 8 JGG, zumal durch die Anordnung der Bewährungshilfe und die dem Bewährungshelfer erteilten Weisungen die Hilfestellung zur Persönlichkeitskonsolidierung des Angeklagten gegeben wurde. Damit erscheint es möglich und zielführend, bei dem offensichtlich unbedarften Angeklagten hinsichtlich der Verbrechen des Nationalsozialismus aufklärend zu wirken und einen Nachdenkprozess auszulösen, der auch bei ihm zu der Erkenntnis führen kann, dass er sich mit der Propagierung von rassendiskriminierenden Aussagen und Verherrlichung nationalsozialistischer Verbrechen ausserhalb der Rechtsordnung stellt, als mit einer Freiheitsstrafe auf solche Verhaltensweisen zu reagieren. Dass eine solche Erkenntnis beim Angeklagten eintritt, ist durch die Aufklärungsarbeit des Bewährungshelfers betreffend die Thematik Nationalsozialismus und Rassendiskriminierung mit hoher Wahrscheinlichkeit zu rechnen. Sollte dies wider Erwarten nicht der Fall sein, so könnte gem § 8 Abs 2 JGG die Strafe immer noch ausgesprochen werden. Der Umstand, dass der Angeklagte im Jänner 2006 in Deutschland ua CDs mit rechtsradikalem Inhalt bestellte, tritt dabei in den Hintergrund, da diese Bestellungen vor den Urteilsfällen I. und II. Instanz erfolgten, der Bewährungshelfer seine Arbeit noch gar nicht aufgenommen hatte und aufnehmen konnte. Vielmehr ins Gewicht fällt die Auskunft des Bewährungshelfers, wonach der Angeklagte sich schuldeinsichtig und kooperativ zeigt. Der Ausspruch einer Strafe würde diesen nunmehr bestehenden positiven Trend zerstören und die Lehrstellensuche des Angeklagten unnötig erschweren.

Es trifft zu, dass iS des Abs 1 des § 8 JGG auch generalpräventive Wirkungen zu berücksichtigen sind, die jedoch im Jugendstrafrecht hintanzustellen sind. Hier hat die Spezialprävention den eindeutigen Vorrang vor der Generalprävention (s Foregger-Fabrizi, öStGB, RN 1 zu § 14 JGG). Der OGH teilt daher die Ansicht des Revisionsgegners, dass allein durch den Schuldspruch und die Einziehung der beschlagnahmten Gegenstände eine ausreichende generalpräventive Wirkung erzielt wurde.

Disponibile sur :

<http://www.gerichtsentscheide.li/default.aspx?mode=lr&prim=3&cvalue=314.1&id=1093&backurl=?mode=lr%26prim=3%26value=314.1>



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# Public Policies

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# Third report on Liechtenstein

Adopted on 14 December 2007

Strasbourg, 29 April 2008



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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## **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.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

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 propose, if they consider it necessary, amendments to 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 following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 14 December 2007 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.**

### **Executive summary**

Since the publication of ECRI's second report on Liechtenstein on 28 June 2002, progress has been made in a number of the fields highlighted in that report. In 2002 the Government adopted a five-year National Action Plan to Combat and Prevent Racism. Many different measures have been taken to train officials and to raise awareness among the general public about the need to combat racism and racist violence. In the field of education, measures have been taken to tackle the problem of disadvantages encountered by children of immigrant origin and to teach pupils about the danger of racism. The Equal Opportunities Office, which deals amongst other things with immigration and integration issues, was created in 2005. The Government adopted an integration strategy for immigrants providing for many positive initiatives. A Working Group on the Integration of Muslims was set up in 2004 to improve the situation of Muslims living in Liechtenstein.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. The integration strategy does not encompass some important measures which should be taken in order to achieve full integration in Liechtenstein. In particular, the acquisition of Liechtenstein citizenship through the system of voting by local residents should be reviewed and the procedure to obtain Liechtenstein citizenship by naturalisation should be further facilitated. Non-citizens who are long-term residents still do not have the right to vote in local elections. The new integration strategy puts strong emphasis on requesting efforts from immigrants without requesting the same level of effort on the part of the majority population. There is still a minority among the general public which expresses racist stereotypes and prejudices against non-citizens and there are still some racist acts, including racist violence, perpetrated by non-organised extreme-right activists. The main targets of racism and of racial discrimination, particularly in the field of housing and employment, are immigrants from Turkey and the Balkans and persons of Muslim faith. Despite measures taken by the authorities, Muslims still face some obstacles in practising their religion and children of immigrant background are still faced with disadvantages in access to education.

In this report, ECRI recommends that the authorities of Liechtenstein take further action in a number of areas. ECRI recommends that the authorities continue to take measures to combat all forms of racism, including racist violence. They should find solutions to the obstacles encountered by Muslims who wish to practise their religious and cultural activities. It recommends that they continue and reinforce their efforts in establishing a school system which guarantees children of immigrant background whose mother tongue is not German equal opportunities in access to education. It calls on the authorities to exercise the utmost care when considering the establishment of a system of sanctions concerning integration and particularly the learning of the German language by non-citizens. ECRI recommends that the authorities of Liechtenstein put in place an all-encompassing strategy to combat all forms of racial discrimination.

## I. FOLLOW-UP TO ECRI'S SECOND REPORT ON LIECHTENSTEIN

### International legal instruments

1. In its second report, ECRI encouraged Liechtenstein to sign and ratify the following instruments as soon as possible: Protocol No 12 to European Convention of Human Rights (ECHR), the European Social Charter (Revised), the ILO Convention No 111 concerning Discrimination (Employment and Occupation), the UNESCO Convention against Discrimination in Education, the European Convention on Nationality, the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.
2. Protocol No 12 to the ECHR, which was signed on 4 November 2000, has not been ratified yet. The authorities are currently considering the possibility of ratifying this instrument.
3. The European Social Charter (Revised), the European Convention on Nationality, the European Convention on the Legal Status of Migrant Workers, and the Convention on the Participation of Foreigners in Public Life at Local Level have not been signed yet. Liechtenstein is neither party to the International Labour Organisation nor to UNESCO and has signed neither the ILO Convention No 111 concerning Discrimination (Employment and Occupation) nor the UNESCO Convention against Discrimination in Education. The authorities have explained that it would be difficult for Liechtenstein to become a member of ILO and UNESCO because it would require the authorities to amend several laws and/or to find human and financial resources that are not currently available.
4. Liechtenstein has not yet 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 are currently considering the possibility of ratifying these instruments. Liechtenstein has not yet signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which has entered into force since ECRI's second report.
5. In its second report, ECRI encouraged Liechtenstein to make the declaration under Article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination, recognising the competence of the Committee on the Elimination of Racial Discrimination to examine individual complaints. ECRI is pleased to note that on 18 March 2004, Liechtenstein made the declaration under Article 14 of this Convention. In accordance with Article 14-2 of the Convention, the Constitutional Court has been designated as competent to receive and consider petitions from individuals and groups of individuals within the jurisdiction of Liechtenstein who claim to be victims of a violation of any of the rights set forth in the Convention.

### **Recommendations:**

6. ECRI reiterates its recommendation that Liechtenstein ratify the following international instruments as soon as possible: Protocol No 12 to European Convention of Human Rights (ECHR), the European Social Charter (Revised), the ILO Convention No 111 concerning Discrimination (Employment and Occupation), the UNESCO Convention against Discrimination in Education, the European Convention on Nationality, the European Convention on the Legal

Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.

7. ECRI recommends 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.

### **Constitutional provisions and other basic provisions**

#### **- *Citizenship legislation***

8. In its second report, ECRI recommended that consideration be given to further reducing the residency requirement for naturalisation. ECRI also recommended that the system of voting by local residents on citizenship requested under the “discretionary” system of naturalisation be reconsidered, particularly in the light of the possible discriminatory effects it might have on persons from certain groups. Finally, ECRI considered that the strict rules which prevented the holding of double citizenship upon acquisition of citizenship of Liechtenstein could have been made more flexible.
9. ECRI has been informed that the legislation on naturalisation is currently being revised by Parliament. Subject to final approval by Parliament, the revised law should require from a candidate proof of German language skills and basic knowledge of the legal order of Liechtenstein and the structure of the State as a prerequisite for naturalisation.
10. ECRI regrets that the current revision of this legislation does not take into account the recommendations concerning naturalisation made in its previous report. Firstly, the length of residence currently required to obtain Liechtenstein citizenship is 30 years. The law already provides that the years from birth to age 20 count double. Subject to final approval by Parliament, in the case of marriage to a Liechtenstein citizen, the length of residence required should be reduced from 12 years to 10 years, and the requirement for a stateless person should only be five years of residence in the country. However, despite debate in the country and within Parliament on this issue, there seems to be no will to change the current requirement for the ordinary procedure of naturalisation. ECRI recalls that 30 years is an extremely long period compared to European standards.
11. Secondly, it is not foreseen to reconsider the system of voting by local residents for the granting of citizenship, as requested by ECRI and by other international and national bodies. ECRI recalls that this system is not based on objective and measurable criteria and leaves the way open for discriminatory effects against persons of certain origins, particularly persons with a Muslim background or who come from non-German speaking countries, who might face higher levels of prejudice and intolerance among the community in which they live. In fact, studies show that very few persons apply for citizenship by this route for fear of seeing their application rejected. Many of those who have nevertheless applied have received a negative vote with no objective reasons.
12. Lastly, the authorities of Liechtenstein have not taken any measures to make the strict rules which prevent the holding of double citizenship upon acquisition of citizenship of Liechtenstein more flexible. Representatives of immigrants, and particularly those from non-German speaking countries such as Turkey, have indicated that they would very much appreciate such a move. ECRI would like to reiterate here the importance of these two measures, i.e. reducing the length of



the residence requirement and allowing for double citizenship, for the achievement of a fully integrated society in Liechtenstein<sup>1</sup>.

#### **Recommendations:**

13. ECRI recommends that the authorities continue the current process of reducing the residency requirement for naturalisation.
14. ECRI urges the authorities to seriously reconsider the system of voting by local residents for the granting of citizenship.
15. ECRI recommends 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.

#### **Criminal law provisions**

16. In its second report, ECRI recommended that the authorities of Liechtenstein monitor very closely the implementation of the criminal law provisions to combat racism which are already in force and ensure in particular that the police, prosecuting authorities and courts were made aware of their contents and were encouraged to make use of them. ECRI also encouraged the police and prosecuting authorities to set up a system of monitoring, classification and recording of racist incidents brought to their attention and of the follow-up to and outcome of such incidents.
17. Article 33-5 of the Criminal Code provides for an aggravating circumstance for all criminal offences when the act is committed with a racist or xenophobic motivation. However, the authorities do not gather statistics which would indicate whether this provision is applied or not. Article 321 prohibits genocide. Article 283 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; 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; and participation in an association promoting racism.
18. According to governmental statistics, between 2002 and 2006 15 complaints concerning racist acts were filed with the police. The police investigated all of these incidents and sent reports to the Public Prosecutor's office. 3 cases concerned unknown perpetrators. Of the other cases, 6 were terminated because the facts did not constitute an offence or due to lack of evidence. In 6 other cases charges were filed by the Public Prosecutor, which resulted in 4 convictions and 2 not guilty verdicts. These cases concern problems of racist verbal abuse, dissemination of a racist ideology, or display of racist material through Internet or other means.
19. The authorities have also indicated that there are a number of racist acts which have remained unpunished due to lack of information about the identity of the perpetrators, for instance in two cases of racist graffiti sprayed over posters for anti-racist campaigns. The authorities of Liechtenstein also stated that there are probably a certain number of racist acts which are not reported to the police. ECRI notes with interest that a law on assistance to victims which enters into force in April 2008 provides for the creation of an Agency responsible for legal, psychological, medical, material and other forms of assistance to victims of

<sup>1</sup> See also below, Integration of immigrants.

violations of the Criminal Code. ECRI hopes that the establishment of such a structure will encourage victims of racist acts to come forward with their complaints.

20. ECRI is pleased to learn that several seminars on combating racism and hate crime have been organised for the police, prosecutors and judges in recent years, particularly in the context of the National Action Plan against Racism<sup>2</sup>. ECRI also notes with interest that following a parliamentary petition launched by a youth anti-racist NGO *Colorida* in order to reinforce the fight against right-wing extremism, the Parliament unanimously asked the Government in November 2006 to reflect on fine-tuning the criminal law provisions aimed at combating racism, with a view in particular to making it very clear that the wearing and displaying of Nazi symbols is prohibited. The petition is under examination by the relevant ministerial bodies.

#### **Recommendations:**

21. ECRI recommends that the authorities of Liechtenstein 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. ECRI recommends that the authorities of Liechtenstein continue to inform the public about the existence of criminal provisions for sanctioning racially motivated acts on a regular basis. It also recommends that they continue taking steps to encourage victims to report such acts.
22. ECRI encourages the authorities of Liechtenstein in their efforts to fine-tune the criminal legislation concerning racist offences. In this respect, ECRI draws the attention of the authorities to its General Policy Recommendation N<sup>o</sup>7 on national legislation to combat racism and racial discrimination<sup>3</sup> which provides guidelines in this field.
23. ECRI recommends that the authorities of Liechtenstein continue collecting 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.

#### **Civil and administrative law provisions**

24. See below, Section II - Specific Issues: - The need to reinforce measures against racial discrimination.

#### **Specialised bodies and other institutions**

##### **- *The Equal Opportunities Office and the Equal Opportunities Commission***

25. ECRI notes with interest the establishment of the Equal Opportunities Office in February 2005 through the expansion of the already existing Gender Equality Office. The Equal Opportunities Office primarily works in the areas of gender equality, disability, sexual discrimination and sexual orientation, but also on immigration, integration of foreigners and religious issues. The Equal Opportunities Office will continue the work of the Working Group against Racism which was established to coordinate the implementation of the National Action

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<sup>2</sup> See below, Measures taken to combat racism.

<sup>3</sup> See Paragraphs 18 to 23 of the General Policy Recommendation and Paragraphs 38 to 49 of its Explanatory Memorandum.

Plan to Combat Racism<sup>4</sup>. The Equal Opportunities Office is the contact, coordination, and advisory body for all questions of equal opportunities.

26. The Equal Opportunities Commission, whose secretariat is run by the Office of the same name, was established in March 2005 to develop and ensure the implementation of interagency solutions to issues of equal opportunities in all areas of life. It is composed of nine members, all from State services, including the Office for Social Affairs, the Office of Education, the Police, the Office of Foreigners and Passport, and the Equal Opportunities Office. Both the Office and the Commission are governmental bodies.
27. These two bodies are tasked with making recommendations and proposals in their field of action. They will monitor measures taken and adopt awareness raising measures in the field of equal opportunities. Individuals can seek legal advice and lodge a complaint with the Equal Opportunities Office, even though the powers of the Office remain limited in this respect. There is still a need to draw the public's attention to the existence of the Office and the Commission and to the existing possibility of lodging a complaint with the Office.
28. ECRI welcomes the establishment of these bodies. However, it considers that it is essential that the body which deals with problems of racism and racial discrimination and which receives individual complaints be independent from the government. It is also important that such a body be given all the necessary powers to deal with a complaint of racial discrimination in an efficient way<sup>5</sup>.

#### **Recommendations:**

29. ECRI recommends that the authorities of Liechtenstein guarantee the independence from the government of the Equal Opportunities Office. ECRI also recommends that the authorities consider extending the powers of the Equal Opportunities Office, in particular to ensure that it can act as a mediator or sanction the perpetrators of racial discrimination, as recommended by ECRI in its General Policy Recommendation N°2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level. More generally, ECRI draws the authorities' attention to this General Policy Recommendation which provides guidelines as concerns the status and the powers of a specialised body to combat racism and racial discrimination.

#### **Education and awareness-raising**

30. See below, Measures taken to combat racism.

#### **Access to education**

31. In its second report, ECRI expressed concern at reports that children of immigrant origin whose mother tongue is not German tended to perform less well in school than children of Liechtenstein origin, that they were more likely to attend the lower-tier secondary schools (*Oberschule*) and that they were less likely to carry on to tertiary education. ECRI considered that this area should be investigated and that measures should be taken where necessary to address any disparities between the educational achievements of children from different groups.

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<sup>4</sup> See below, Measures taken to combat racism

<sup>5</sup> Concerning racial discrimination, see also below, Specific issues : - The need to reinforce measures to combat racial discrimination.

32. ECRI notes with concern that several studies based on statistical data, including from the Office of Education, confirm the disadvantaged situation of children of immigrant origin whose mother tongue is not German, especially from southern, eastern, and south-eastern Europe and from Turkey, in the field of education. Liechtenstein and Swiss citizens are overrepresented in the middle-tier secondary schools (*Realschule*) and upper-tier secondary schools (*Gymnasium*), while pupils from other countries are overrepresented in the lower-tier secondary schools (*Oberschule*) and in special needs schooling. The Office of Education has identified several problems which may be at the origin of this situation. Among them, the language factor plays an important role in the performance deficits of the students with migrant backgrounds. The lower socio-economic status of many families with the above-mentioned migrant background also constitutes a factor.
33. ECRI is pleased to note that the authorities, aware of the disadvantages suffered by pupils of immigrant origin whose mother-tongue is not German, have taken several remedial measures. They have established a system of one-year intensive courses called “German as a Second Language”, complemented by additional German courses after re-integration into mainstream classes for up to seven years after the end of the intensive course. The authorities are currently setting up a programme of “day structures and care outside home” which could be a solution for children whose parents do not master German to do their homework in favourable conditions, for instance with the help of a tutor. The Government has decided to create six “joint profile-schools” where all pupils at the secondary level will study a joint curricula not divided into three different tiers. Another project is to postpone the time of selection between several school types to increase the opportunities of children of immigrant origin, as research shows that the opportunities of children are less dependent on the background of their parents if the selection takes place at a later stage.
34. In its second report, ECRI recommended that given the large non-citizen population in Liechtenstein, the authorities should provide financial support for mother tongue teaching for children of immigrant origin. ECRI notes that the authorities have not taken any measures in this direction. For the moment, they only offer access to school premises and facilities to persons who wish to organise such mother-tongue courses as extra-curricular activities.

#### **Recommendations:**

35. ECRI recommends that the authorities of Liechtenstein continue and 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.
36. ECRI reiterates its recommendation that the authorities of Liechtenstein provide financial support for mother tongue teaching for children of immigrant origin whose mother tongue is not German.

#### **Integration of immigrants**

37. The total population of Liechtenstein (35 168 persons) is composed of around one third of non-citizens<sup>6</sup>. Among non-citizens, 57.4% are from the following German-speaking countries: Switzerland, Austria and Germany. There are also

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<sup>6</sup> As of 31 December 2006.

15 477 commuters who cross the borders with Switzerland and Austria every day to come to work in Liechtenstein. All these persons share a similar linguistic background with the majority population as German is the official language in Liechtenstein. Other non-citizens living in Liechtenstein mainly come from Italy, Turkey, Spain, Portugal and from countries of the Balkans<sup>7</sup>. Non-citizens from non-German speaking countries thus constitute 14.6% of the total population of Liechtenstein. Most of the non-citizens living in Liechtenstein are in the country for work purposes and some have come for purposes of family reunification with persons working in the country.

38. In its second report, ECRI encouraged the authorities in their efforts to set up and implement an integration strategy which would contain clear policies to improve the integration of persons of immigrant origin in concrete terms. In particular, ECRI recommended that the strategy include a wider and more accessible range of German language learning possibilities, with the collaboration and participation of employers themselves, and measures to ensure that non-citizens can participate in the public and political life of the country.

- ***The concept of integration***

39. ECRI is pleased to note that the authorities of Liechtenstein have actively pursued their efforts in setting up and implementing an integration strategy for non-citizens. As explained below, the National Action Plan against Racism focused on two topics, one of which was integration<sup>8</sup>. The Working Group against Racism, Anti-Semitism and Xenophobia (WG-R) which has coordinated the implementation of the Plan took several initiatives in favour of integration and published, in August 2007 a Status Report on facts, causes, measures and recommended integration policy actions concerning the integration of the foreign population in Liechtenstein<sup>9</sup>. It is impossible to describe all the positive initiatives which have been taken in favour of integration in this report but they are described in the report of the Working Group against Racism (WG-R) referred to above and some of them are also mentioned in other parts of this report.
40. The concept of integration is now enshrined in several documents such as the 2004 Ordinance on the Movement of Persons which provides that the integration of non-citizens is a State objective. In March 2006, the Equal Opportunities Commission presented to the Government a Concept Paper on Integration. On the basis of this document, the Government adopted a Policy Paper on Liechtenstein Integration Policy on 27 February 2007<sup>10</sup>. ECRI has been informed that the legislation on non-citizens is being revised and that the new legislation, which will probably be adopted in 2008, should include provisions dealing specifically with the integration of non-citizens.
41. On the basis of all the documents mentioned above, it is possible to summarise the main features of the Government's integration policy as follows: Integration is based on two principles, "*fördern und fordern*", i.e. promoting and demanding. Under the "promotion" aspect, the authorities should establish a general framework to promote integration, including through the adoption of measures aimed at: improving mutual understanding between the host society and the migrant population; taking account of specific problems encountered by

<sup>7</sup> As of June 2006.

<sup>8</sup> See below, Measures taken to combat racism.

<sup>9</sup> Integration der Ausländischen Bevölkerung in Liechtenstein, verfasst für die Arbeitsgruppe gegen Rassismus, Antisemitismus, und Fremdenfeindlichkeit, Vaduz, August 2007, 146 p.

<sup>10</sup> (RA 2006/2949, *Grundsatzpapier der Regierung zur Liechtensteinischen Integrationspolitik*).

immigrants; creating the conditions for immigrants to participate on equal terms in the social life of the country and to contribute to the integration process; promoting the learning of the German language by immigrants; promoting professional integration of immigrants; ensuring equal access to social welfare systems and health care for immigrants; and making financial resources available for the integration process.

42. Under the “demanding” part, the Government stresses that integration requires efforts not only on the part of the authorities, but also on the part of all members of the society and in particular on the part of immigrants. The latter have to, amongst other things: make active efforts to master the German language; recognise the fundamental social order, particularly as concerns gender equality; and inform themselves about their rights and duties. Employers are asked - without being obliged - to support their foreign employees in making use of integration opportunities. Members of the majority population are asked to be “open” to immigrants.
43. ECRI recalls that integration is a two-way process involving both majority and minority communities. It stresses that measures taken under the “demanding” approach should extend to society as a whole and not exclusively focus on immigrants, in order to avoid their stigmatisation and the impression that the success of integration depends solely on their efforts. It is also important that the authorities continue to put emphasis on combating racism. The problem of stigmatisation, generalisations, stereotypes and prejudices among the majority population against immigrants should also be tackled in order for the integration process to be a complete success. In particular, in order to further emphasise the responsibilities of the majority population, ECRI considers that the authorities should focus on measures to combat discrimination in a way that is explicitly and consistently presented to the public as forming an integral part of integration policy. The issue of racial discrimination will be addressed in section II of this report<sup>11</sup>. Another significant aspect of a successful integration process, which is the possibility of acquiring Liechtenstein citizenship, is dealt with above<sup>12</sup>. In the present section, ECRI will address two aspects which it finds fundamental for an integrated society in Liechtenstein, namely the question of proficiency in the German language and the issue of political rights for non-citizens.

#### **Recommendations:**

44. ECRI recommends that the authorities of Liechtenstein continue their efforts in favour of an integration policy which reflects the idea of integration as a two-way process involving both majority and minority communities. To this end, ECRI recommends that the authorities further develop the “promotion” aspect, in particular by adopting measures aimed at promoting genuine mutual respect for diversity and knowledge of different cultures or traditions and eradicating stereotypes and prejudices on cultures and values. To the same end, it recommends that the authorities make their work against racial discrimination an integral part of their integration policy and that they consistently present it as such to the public<sup>13</sup>.

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<sup>11</sup> See below, Specific Issues: - The need to reinforce measures against racial discrimination.

<sup>12</sup> See above, Constitutional law provisions and other basic provisions.

<sup>13</sup> See also below, recommendations made under Specific Issues: - The need to reinforce measures against racial discrimination.

- **Integration and the German language**

45. ECRI is aware that mastering the German language is an important tool for improving integration of immigrants from non-German speaking regions. In this respect, it notes with interest that, in line with the “promoting” approach, some initiatives have been taken or supported by the authorities of Liechtenstein to encourage immigrants to learn German. An example which has generally been described as successful is the introduction of financial vouchers of 200 CHF (around 120 Euro) to partially cover the costs of German lessons for adults. The Association for Intercultural Education (*Verein für interkulturelle Bildung, ViB*) also provides a wide range of German courses including a course specifically tailored to mothers staying at home, whereby mothers and their young children can learn German together. Such NGO initiatives are supported by the State even though the lack of sustained and guaranteed public financial support makes the task of organising such activities more complicated for NGOs.
46. ECRI wishes to express its concern at indications that the future Law on Foreigners will introduce a system of sanctions for non-citizens who do not reach a sufficient level of German. The current plan is to introduce “integration agreements” (*Integrationsvereinbarungen*) whereby non-citizens from countries other than Switzerland or the European Economic Area (EEA) commit themselves to learning German and acquiring basic knowledge about the structures and values of the State. It is currently envisaged that failure to respect the agreement could lead to withdrawal of the residence permit.
47. ECRI notes that some representatives of NGOs and immigrants have expressed doubts about the efficiency of exclusively placing demands on immigrants and about a system of sanctions against those who do not have a sufficient command of German. ECRI stresses that if a system of sanctions is to be introduced as currently foreseen, it should at least be based on the principle of proportionality and in full accordance with the rights of the individual and in particular the right to private and family life.
48. ECRI considers that the introduction of sanctions is not an appropriate means to persuade non-citizens to integrate and that positive incentives should be regarded as a sufficient means of persuasion. Therefore, ECRI believes that the “promoting” approach should be reinforced in the field of mastering the German language. The few measures taken in this direction have already proven to be effective and any such measure can only bring about positive results for non-citizens and society as a whole. According to NGOs working in this field, there is indeed a strong demand from immigrants for German language courses of good quality, tailored to the individual circumstances of the persons concerned and which are free of charge or inexpensive. For instance, a wider variety of courses should be offered, catering for the needs of all non-citizens, ranging from women who stay at home to employees who have unusual working hours or particularly hard working conditions.
49. ECRI notes with interest that the authorities have introduced good practices such as German courses, financed by the Office for Economic Affairs, for unemployed non-citizens looking for a job to increase their chances of success. While some employers are already supporting to a greater or lesser extent their employees who wish to learn German, it seems that not all of them provide adequate conditions in this field, in particular when the employee works in a job where German is not absolutely necessary to accomplish his/her task. Therefore, measures targeting employers and requiring them to offer their employees all opportunities to learn German are important in order to avoid putting the burden

of integration exclusively on the shoulder of immigrants who work and contribute to the economy and welfare of the country.

50. ECRI also underlines that particular attention should be paid to the issue of dialect spoken in the country as it is very different from standard German. This constitutes an additional difficulty for non-German-speaking adults who learn standard German. In fact, native Liechtenstein citizens use standard German only in written communication and Liechtenstein dialect in oral communication. In this field, the authorities could raise the awareness among the population and officials about efforts they should make towards non-citizens by speaking standard German with those who even after having acquired a satisfactory command of German may not or not fully master Liechtenstein dialect. German lessons mentioned above could also be conceived in taking this particularity into account.

**Recommendations:**

51. ECRI recommends that the authorities exercise the utmost care when considering the establishment of a system of sanctions concerning the learning of the German language by non-citizens. It is important that no measures be taken which would have a counterproductive effect on the integration process by increasing the stigmatisation of non-citizens or by jeopardising the full respect of their individual rights.
52. ECRI recommends that the authorities of Liechtenstein put strong emphasis on measures aimed at encouraging learning of German by non-German speaking non-citizens, through the adoption of complementary adequate incentives and opportunities to learn such a language, which implies necessary financial and other efforts on the part of the authorities. The authorities should also take measures to make society as a whole, and particularly officials working in public administration and employers, aware of the need to make efforts on their side to help the non-citizens concerned to learn German.
53. In particular, ECRI recommends that measures be taken to provide non-citizens with German language training of good quality, tailored as much as possible to the individual competencies and needs of the person concerned and which is inexpensive. In this connection, ECRI considers that the provision of public long-term support to organisations with successful experience in providing German language training to non-citizens would be a more effective measure than the solution currently envisaged of an "integration agreement" coupled with sanctions.

**- Integration and participation in public and political life**

54. In its second report, ECRI recommended that the possibility of allowing voting rights at local level for long-term residents be considered as a means to increase their participation in their local communities.
55. ECRI notes with regret that although the issue of granting voting rights to long-term residents has been discussed in Liechtenstein on several occasions since its second report, there are no indications that this will be achieved in the near future. Parliament is currently revising the legislation on non-citizens but there is no intention on the part of the authorities of Liechtenstein to introduce such rights.
56. ECRI notes with concern that the opportunities to participate in political life even on a consultative level remain scarce. Some municipalities have organised meetings with non-citizens to discuss matters of interest to them before taking a



decision on such matters. NGOs representing immigrants are also consulted by the State authorities. For instance, a networking platform of non-citizens' organisations, called Integration Working Group, was set up in 2006. This platform makes proposals to the government in the field of integration under the coordination of the Equal Opportunities Office. However, much more could be done to involve immigrants in the political life of Liechtenstein at national and local levels, including through the ratification and subsequent implementation of the Convention on the Participation of Foreigners in Public Life at Local Level<sup>14</sup>.

#### **Recommendations:**

57. ECRI urges the authorities of Liechtenstein to confer eligibility and voting rights to long-term resident non-citizens in local elections.
58. ECRI also recommends that adequate mechanisms be set up which allow for non-citizens to be consulted and participate actively in the political decision-making process both at national and local levels.

### **Reception and status of non-citizens**

#### **- Refugees and asylum seekers**

59. There are few asylum seekers and refugees in Liechtenstein. The number of asylum applications has been constantly decreasing since 2001. The authorities have indicated that in 2006 they received 47 applications for asylum. In principle, the asylum procedure provides for the presence of an NGO, namely Liechtenstein Refugee Assistance, as an observer, during interviews with the relevant authorities on the grounds of the application. However, ECRI has been informed that the authorities make extensive use of the possibility of holding an interview without the presence of the NGO, particularly in the case of interviews linked to the decision not to examine the application on the merits. ECRI believes that the presence of an NGO as an observer during all interviews can contribute to ensuring that the whole procedure is run in an adequate manner. ECRI notes that the Commissioner for Human Rights of the Council of Europe already asked in the 2005 report on his visit to Liechtenstein that the authorities allow for the presence of the NGO during *all* hearings throughout the application process.
60. In general, ECRI notes with concern that despite the small number of asylum seekers in Liechtenstein, the general climate of opinion concerning refugee issues has become less open in recent years. ECRI has been informed that a poster, put up throughout the country for a United Nations Commissioner for Refugees' campaign aimed at raising the population's awareness about refugee issues, was anonymously sprayed with racist symbols and slogans in several areas. The legislation on asylum is being revised, with the risk according to several sources of this leading to a more restrictive asylum procedure than the existing one. A poll indicated in 2007 that a large majority (78.2%) of those who have answered would like to see the asylum legislation becoming more restrictive. Such trends are probably linked to current general debates occurring in some European countries and particularly in neighbouring countries about restricting access to the asylum procedure. However, experts in this field have pointed to the fact that the situation in Liechtenstein cannot be compared with the situation of nearby countries. Therefore, there is no reason why measures taken and debates going on in the field of asylum in other countries should be automatically reflected in the Liechtenstein legal order and debate.

<sup>14</sup> See above, International Legal Instruments.

**Recommendations:**

61. ECRI recommends that the authorities of Liechtenstein allow the person concerned to benefit from the presence of an NGO specialised in asylum issues as an observer during all interviews throughout the asylum procedure.
62. ECRI also recommends that the authorities of Liechtenstein continue and reinforce their efforts to ensure that asylum be granted to all those who fulfil the current legal conditions and to combat stereotypes and prejudices among the majority population against asylum seekers and refugees.

**- The situation of immigrant women**

63. In its second report, ECRI recommended that the authorities take steps to ensure that the system of residence permits did not leave immigrant women in an unnecessarily precarious or vulnerable situation in areas such as domestic violence.
64. In the case where the residence permit of an individual is linked to his/her marriage, it has been reported to ECRI that some women may hesitate to leave their partner even in cases of violence, since they fear expulsion from Liechtenstein. ECRI notes that immigrant spouses who divorce their partner on grounds of violence are permitted to stay in Liechtenstein even if the five-year-residence requirement is not fulfilled, provided that the violence is documented by a doctor, psychologist or police report. The authorities can also allow an immigrant to stay for other reasons such as the interest of his/her child or his/her professional situation. However, NGOs have insisted on the need, and the possibility of creating a more flexible, case-by-case approach in this field where the residence permit would not automatically be linked to the civil status of the persons concerned.
65. As far as residence permits for spouses who are victims of domestic violence are concerned, ECRI notes that the main problem lies in the fact that these persons are not always aware of their rights and that it is not always easy to produce the necessary evidence of violence, particularly in the case of psychological violence. ECRI is pleased to note that measures have been taken to inform the persons concerned about their rights. However, according to NGOs, more efforts could be made to increase the transparency of the decision-making process in this field.
66. In general, immigrant women from non-German speaking countries who are without professional activity are in a particularly vulnerable situation, mostly due to the isolation they experience. This is why ECRI welcomes good practices such as the creation of a structure by the NGO Infra and financially supported by the State where women, in particular immigrant women, can meet for social events. There is also another structure where they can seek psychological, legal and other forms of free advice. It is also important that these immigrant women be given every opportunity to learn the German language<sup>15</sup>.

**Recommendations:**

67. ECRI recommends that the authorities of Liechtenstein continue their efforts in finding adequate solutions to problems faced by those immigrant women who find themselves in a particularly vulnerable situation.

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<sup>15</sup> See above: Integration of immigrants, - Integration and the German language.

## Vulnerable groups

### - ***Muslim communities***

68. See below, Section II – Specific issues: - The situation of Muslim communities in Liechtenstein.

### - ***Immigrants from non-German speaking countries***

69. See above, Integration of immigrants and below, Specific Issues: - The need to reinforce measures to combat racial discrimination.

## Measures taken to combat racism

70. ECRI is pleased to note that many measures have been taken by the authorities to combat racism and raise the population's awareness among the general public about the danger of racism and related intolerance and the need to firmly counter such phenomena. These measures include general awareness-raising measures and more specific issues aimed at combating racist violence and right-wing extremism.

### - ***General awareness-raising measures***

71. The results of two recent surveys among the population and in particular Liechtenstein youth indicate that a significant majority of the respondents are open to non-citizens and of the opinion that immigration is good for the economy and brings an enrichment of culture. Unfortunately, however, a minority of them believe that immigrants increase the crime rate, take jobs away from those born in Liechtenstein, and that the State spends too much money on immigrants. A minority also express their fear of immigrants becoming too numerous in the country. Other studies show that some members of Liechtenstein population believe that immigrants should give up their culture if they wish to stay in the country, advocating therefore the assimilation of the latter rather than the integration. Both non-governmental and governmental sources consistently report that currently immigrants from Turkey and the Balkans and persons of Muslim faith are the main targets of racist prejudices and stereotypes.

72. Against this background, measures which have been taken by the authorities to raise awareness among the population on the need to combat racism and to promote diversity are to be welcomed. Some of these measures are mentioned in other parts of this report. It is impossible to describe all other initiatives taken in this field since ECRI's second report. To mention but a few of them, ECRI welcomes the adoption of a five-year National Action Plan to Combat and Prevent Racism (2003-2007), based, among others, on the recommendations made in ECRI's second report on Liechtenstein. An intergovernmental Working Group against Racism, Anti-Semitism, and Xenophobia (WG-R) was set up to coordinate all activities organised in the framework of this Action Plan. The Action Plan focused on two main issues: combating racism and promoting integration. Within the limited yearly budget allocated to the Working Group to accomplish its task, it organised several awareness-raising activities such as training, seminars, round tables etc. on the problem of racism. In co-operation with the Equal Opportunities Office, the Working Group contributed to the development and implementation of a comprehensive concept for the integration of non-citizens in Liechtenstein<sup>16</sup>. A training session on intercultural communication and conflict

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<sup>16</sup> See also above, Integration of immigrants.

resolution for officials working in contact with non-citizens was successfully organised and was therefore repeated for other officials. The National Action Plan has not been renewed and the Working Group was dissolved at the end of 2007. However, the Equal Opportunities Office will continue the work of the Working Group both in the field of combating racism and promoting integration.

73. ECRI also notes that the Forum on Racism organised in March 2007 by the Youth NGO *Colorida* with the participation of other NGOs and relevant public authorities was a successful event, which helped in raising awareness among the general population. In 2006, Liechtenstein introduced an annual Holocaust Memorial Day in Liechtenstein. Activities to raise general awareness about the problem of antisemitism and racism are regularly organised, including in the field of school education.

- ***Measures to combat racist violence and right-wing extremism***

74. In its second report, ECRI encouraged the authorities in their efforts to monitor and deal with the problem of right-wing extremism.
75. ECRI is pleased to note that the authorities have continued their efforts to combat racist violence and right-wing extremism. They have been monitoring the situation since ECRI's second report. On the basis of the information collected thanks to this monitoring, it is possible to say that there is no right-wing extremist political party in Liechtenstein and that right-wing extremism is circumscribed to a non-organised circle of 20 to 40 young activists and to the same number of followers. Since ECRI's last report, the authorities have been registering the same level of incidents involving right-wing extremists every year. Such incidents include physical attacks, racist graffiti, racist slogans shouted during public events and some violent clashes between right-wing extremists and non-citizens or anti-racist activists, particularly during such events. The authorities have also stressed that right-wing extremists tend to operate underground more than before and therefore are also less openly violent. This change in attitude seems to be linked to the refusal by and condemnation among the general population of any kind of violence, including racist violence.
76. To counter right-wing extremism and other forms of violence, the authorities set up in 2002 an interagency Violence Protection Commission, composed of representatives of the police, the prosecution authorities, the Office of Education and the Office of Social Affairs, which monitors the situation and coordinates measures against violence in society and at school. A Campaign called "Respect, please!" and mainly targeting school pupils was organised in order to address the issue of all forms of violence including racist violence. The Commission is currently preparing a sociological study which will aim at understanding the reasons for the presence of right-wing extremism in the country. On the basis of this study, the authorities intend to take adequate preventive and remedial measures in this field.

***Recommendations:***

77. ECRI strongly encourages the authorities of Liechtenstein in their efforts to combat all forms of racism, ranging from racist stereotypes and prejudices to more violent forms of racism such as right-wing extremism. Aware that combating racism and changing mentalities require long-term strategies, ECRI recommends that these efforts be maintained by all relevant authorities beyond the five-year National Action Plan against Racism.

78. ECRI recommends 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. In this respect, it draws the authorities' attention to its General Policy Recommendation N°10 on combating racism and racial discrimination in and through school education.

### **Monitoring the situation**

79. ECRI is pleased to note that since its second report, the authorities of Liechtenstein have carried out or encouraged and supported, a significant number of studies in the field of combating racism. In some cases these studies have been used as a basis by the authorities for remedial measures against situations of disadvantage experienced by persons on the grounds of their ethnic origin or their nationality. This is the case in the field of employment or education, for instance.
80. The Working Group against Racism (WG-R) mentioned above commissioned a study on "Statistical Data on Racism and Discrimination in the Principality of Liechtenstein – Requirements, analyses and perspective" from the independent Liechtenstein Institute, which was published in September 2005. This study allows a better assessment of the extent of racism and direct and indirect racial discrimination in Liechtenstein. It also indicates the fields where there is a lack of statistical data, namely the fields of education, health care, the labour market and housing. The study concludes with a list of recommendations on the kind of statistical data needed and on the ways in which it should be collected. It also insists on the lack of survey and polls about racism both among the general public and among the groups vulnerable to racism and racial discrimination about their own perception and experience in this field. A Statistics Project Group was set up in 2006 to further reflect and make proposals as concerns statistical data needed to combat racism and racial discrimination.

### ***Recommendations:***

81. ECRI strongly encourages the authorities of Liechtenstein to continue looking into means of setting up a full and coherent system of data collection so as to evaluate the situation regarding the different minority groups in Liechtenstein and determine the extent of manifestations of racism and direct and indirect racial discrimination. In this respect, ECRI draws the authorities' attention to its General Policy Recommendation No 4 on national surveys on the experience and perception of discrimination and racism from the point of view of potential victims, which provides guidelines in this field.
82. ECRI recommends that the authorities collect relevant information broken down according to categories such as ethnic origin, language, religion and nationality in different areas of policy, and ensure that this is done in all cases with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. These systems should also take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

## II. SPECIFIC ISSUES

### The situation of Muslim communities in Liechtenstein

83. In its second report, ECRI encouraged the authorities of Liechtenstein to keep the issue of possible verbal harassment and discrimination against members of Muslim communities under close examination and drew attention to its General Policy Recommendation No 5 on combating intolerance and discrimination against Muslims. It also recommended that the authorities find a solution concerning adequate prayer rooms for Muslim communities.
84. Approximately 3 to 4 % of the population living in Liechtenstein belongs to the Muslim faith. In May 2004 the Government established a Working Group on the Integration of Muslims. The Working Group is composed of an equal number of representatives of Muslims and of governmental departments familiar with the subject matter. The aim of the Working Group is to build up an institutionalised dialogue between Muslims and the authorities and to contribute to a climate of mutual respect. Measures which have been taken following suggestions made by this Working Group include the acquisition of literature on Islam available to the public in the Liechtenstein National Library, the payment since 2006 of a State contribution to the Islamic communities for religious and cultural uses, and the granting of a short-term stay permit for an additional Imam during Ramadan. ECRI notes with interest that, under the impulsion of this Working Group, the decision was taken to run a pilot project during the school year 2007/2008 offering optional religious courses on Islam for Muslim pupils in public primary schools in the same way as they already exist for Catholic and Protestant pupils. This decision was welcomed by the representatives of Muslim communities. It is to be hoped that this pilot project will be generalised across the whole country in the coming years.
85. ECRI wishes to express its concern at reports indicating the existence of expressions of hostility on the part of some members of the majority population against members of Muslim communities. ECRI has received reports of cases of verbal and even physical abuse in the streets against Muslims and particularly against women wearing headscarves. Examples of such abuse include the case of a person who openly spat in the direction of a woman wearing a headscarf ; the case of a woman wearing a headscarf being publicly insulted, and that of a Muslim woman whose headscarf was snatched off in public. Cases of harassment against Muslim pupils at schools and other forms of misbehaviour on the part of some teachers or pupils have also been reported. ECRI is also concerned at reports of discrimination against members of Muslim communities on the grounds of their religion in the field of access to housing, public services and employment, particularly for Muslim women wearing a headscarf<sup>17</sup>. Some reports in the foreign media widely read by Liechtenstein residents have been cited as negatively influencing the majority population by spreading racist prejudices and stereotypes against Muslims. ECRI believes that there is need for further awareness-raising action on the part of the authorities in order to counterbalance this negative influence<sup>18</sup>.
86. Representatives of Muslim communities have stressed the problem of the lack of an adequate mosque in Liechtenstein and of a cemetery where they could bury the deceased according to their religious rites. The authorities have explained

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<sup>17</sup> See below, The need to reinforce measures against racial discrimination in Liechtenstein.

<sup>18</sup> See above, Measures taken to combat racism.

that the issue of a cemetery has been dealt with intensively by the above-mentioned Working Group on the Integration of Muslims, but that the Muslim members of this Working Group did not consider it necessary to include this matter in the list of short-term or long-term projects. Representatives of Muslim communities have also complained about unjustified difficulties in finding premises for running their cultural activities. In one particular case, they contested before the courts, without success so far, the refusal of a municipality to rent them a place for cultural purposes which was based on arbitrary reasons according to them. The authorities have declared that the reasons for the refusal in this case were not arbitrary and were based on the rules on the use of buildings applying to industrial zones of municipalities. Representatives of Muslim communities have stressed that some politicians, locally elected persons or even lawyers sometimes prefer not to cater to Muslim communities' needs, reportedly under the pressure of general public opinion. ECRI considers that a solution should be found, allowing all religious groups, and in particular Muslims, who wish to exercise their cultural activities on the territory of Liechtenstein to do so without being confronted with insurmountable obstacles.

87. ECRI notes that, while the Orthodox Christians do not suffer from the same intolerance and discrimination problems as the Muslim communities, they constitute a group of 365 members who ask for more support on the part of the authorities in their religious and cultural activities. In particular, this group would like to receive more financial support for their religious activities such as organisation of religious courses at school. They also would like to be given the possibility of participating more actively in the national decision-making process concerning religious issues. The authorities could therefore envisage giving more attention to the general issue of religious diversity. Such move would benefit to all small religious groups, including Muslim and Orthodox Christian communities.

#### **Recommendations:**

88. ECRI strongly recommends that the authorities of Liechtenstein maintain and reinforce their efforts to effectively combat racist stereotypes and prejudices as well as any other manifestations of religious intolerance on the part of members of the majority population against members of Muslim communities. In this connection, ECRI draws the attention of the authorities of Liechtenstein to its General Policy Recommendation No.5 on combating intolerance and discrimination against Muslims, which provides detailed guidance on the measures which should be taken in this field.
89. ECRI recommends that the authorities of Liechtenstein continue their efforts and their dialogue with representatives of Muslim communities to find solutions as soon as possible to all the obstacles encountered by members of Muslim communities who wish to practise their religious and cultural activities.

## The need to reinforce measures against racial discrimination

90. In its second report, ECRI recommended that the authorities of Liechtenstein introduce a comprehensive body of civil and administrative law prohibiting racial discrimination in all the various fields of daily life.
91. Since ECRI's second report, no changes have been made to the legislation in Liechtenstein to reinforce the fight against racial discrimination. The main provisions that apply in this field are Article 31 of the Constitution and Article 283 of the Criminal Code<sup>19</sup>.
92. ECRI notes that Article 31 of the Constitution<sup>20</sup> only provides for the principle of equality between citizens of Liechtenstein. However, the authorities have indicated that, according to the case law of the Constitutional Court, it is also applicable to non-citizens. Furthermore, this provision does not clearly establish that discrimination is prohibited on the grounds of race, colour, language, religion, nationality and ethnic or national origin. In principle, this provision is directly applicable by Liechtenstein courts. In practice however, no court has ever applied this provision in the framework of the principle of non-discrimination on racial grounds.
93. Article 283 of the Criminal Code, entitled "Racial Discrimination", prohibits in its paragraph 6 the refusal of a service meant for the general public to a person or a group of persons on the basis of race, ethnicity, or religion. So far, no complaint under this provision has been brought to the authorities' attention.
94. There are other provisions applicable within the domestic legal order which prohibit discrimination. Among them, Article 14 of the European Convention on Human Rights prohibits discrimination with respect to the rights set forth in the Convention. The Convention is directly applicable by Liechtenstein courts but Article 14 has never been applied in cases of racial discrimination before domestic courts. Article 46 para 1 (a) of the Employment Contract Act prohibits termination of a labour relationship on the grounds of personal traits, that is to say on the basis of race, colour, descent, nationality or ethnic origin. ECRI understands that this article has not been applied yet. There is no other provision in the labour law which would clearly prohibit racial discrimination outside the scope of contract termination such as in the field of access to employment, occupation and self-employment as well as work conditions, remuneration or promotions.
95. The fact that none of these provisions has yet been applied does not mean that no case of racial discrimination has occurred in Liechtenstein. ECRI notes with concern that many different sources and studies point to problems of direct racial discrimination<sup>21</sup> in access to employment and housing, when a person has been

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<sup>19</sup> Concerning Article 283 of the Criminal Code, see also above, Criminal law provisions.

<sup>20</sup> Art. 31 of the Constitution: 1) All Liechtenstein citizens shall be equal before the law. Public offices shall be equally open to them, subject to observance of the legal provisions. 2) Men and women shall enjoy equal rights. 3) The rights of foreigners shall be determined in the first instance by international treaties, or, in their absence, by reciprocity.

<sup>21</sup> According to Paragraph 1 b) of ECRI General Policy Recommendation N°7, " 'direct racial discrimination' shall mean 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. Differential treatment has no objective and reasonable justification if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised".



refused a job or rental accommodation on the grounds of his/her ethnic origin or religion. Reportedly, the victims of such cases are mainly from Turkey or from the Balkans and/or of Muslim faith. As there have been no formal complaints, it is difficult to know the real extent of this problem. Representatives of immigrants, NGOs and officials working in different public services have consistently reported such cases to ECRI. For example, some of them have explained that they have themselves experienced or witnessed such problems; others have indicated that they have received credible reports about such cases of racial discrimination.

96. Several reasons can be put forward to explain the discrepancies between the reports mentioned above and the lack of complaints before courts. A first reason is that the scope of some of the existing provisions mentioned above does not cover the specific cases referred to above. For instance, racial discrimination in recruitment is in principle covered neither by Article 14 of the ECHR nor by the Employment Contract Act. Another reason may be that, under the current law, it is difficult to prove the existence of such discrimination before the courts because discrimination is sometimes hidden behind a fallacious justification. Due to the principle of presumption of innocence, strict rules of evidence apply in criminal law, a fact that makes it more difficult for the victim to use this avenue to obtain redress in many cases of discrimination. There are no civil and administrative anti-discrimination provisions establishing a shared burden of proof as recommended by ECRI<sup>22</sup>. A shared burden of proof means that the complainant should establish facts allowing for the presumption of discrimination, whereupon the onus shifts to the respondent to prove that discrimination did not take place. Thus, in cases of alleged direct racial discrimination, the respondent must prove that the differential treatment has an objective and reasonable justification.
97. Another reason may be that the population in Liechtenstein and particularly the victims of such acts are not aware of the fact that these acts are - or should be - prohibited as they constitute a violation of human rights. NGOs have explained that, in the end, victims of racial discrimination in employment nearly always find a job thanks to the fact that the labour market is currently favourable. Likewise, victims of racial discrimination in the field of housing eventually find appropriate accommodation despite the tense housing market, thanks in particular to the help of the Office for Social Affairs. Therefore, despite the gravity of racial discrimination, and for all the reasons explained above, victims do not necessarily see the benefit of complaining before a court.
98. ECRI considers that efforts towards the integration of Liechtenstein society should include an all-encompassing strategy to combat direct and indirect forms of racial discrimination<sup>23</sup>. In particular the strategy should include both legal and awareness-raising measures, targeting discrimination on the grounds of ethnic or religious origin and occurring in access to employment and housing but also in other fields of everyday life such as access to goods and services.
99. Civil and administrative law provisions should be adopted to complement the existing constitutional and criminal law provisions against racial discrimination. In the field of combating racial discrimination, whereas criminal law both has a symbolic effect which raises the awareness of the seriousness of racial discrimination and a strong dissuasive effect, civil and administrative law often provide more flexible legal avenues, which may facilitate victims' recourse to legal action and provide easier mechanism for redress. While the Equal

<sup>22</sup> See Paragraph 11 of General Policy Recommendation N°7 on national legislation to combat racism and racial discrimination and Paragraph 29 and 30 of its Explanatory Memorandum.

<sup>23</sup> Concerning integration, see also above, Integration of immigrants.

Opportunities Office set up in 2005 is competent to receive individual complaints of racial discrimination, it has only an advisory role in this respect. So far, no complaints of racial discrimination have been brought to the attention of this body but this may be partly due to its limited powers in this respect and to the fact that its competence as an advisory body in this field is not yet known by the general public<sup>24</sup>. For these reasons, the body responsible for dealing with individual complaints of racial discrimination should be reinforced, as recommended above<sup>25</sup>.

100. In this respect, the authorities of Liechtenstein may draw inspiration from ECRI's General Policy Recommendation N°7 on national legislation to combat racism and racial discrimination<sup>26</sup>. ECRI notes that a Law on Gender Equality adopted in 1999 and amended in 2006 (*Gleichstellungsgesetz, GLG*) in order to transpose Council Directive 76/207/EEC as amended<sup>27</sup> prohibits gender-based discrimination in the field of work. This law defines direct and indirect discrimination and provides for a mechanism of simplified burden of proof in civil law. Thus, the authorities could also draw inspiration, *mutatis mutandis*, from the Law on Gender Equality and the existing European Union Directives covering the issue of racial discrimination in employment and other fields of life<sup>28</sup>.
101. ECRI believes that legal measures should be complemented by an awareness-raising campaign about the problem of direct and indirect racial discrimination. It notes with interest that some awareness-raising measures have been taken by the authorities, for instance through the participation in a poster campaign organised by the Swiss Federal Commission against Racism called "Without Exclusion" and aimed at denouncing the phenomenon of racial discrimination. Many other awareness-raising measures have been taken in the framework of the National Action Plan against Racism, but so far these measures have been focusing more on the problem of racist physical and verbal violence and less on the notion of racial discrimination in everyday life.

#### **Recommendations:**

102. ECRI recommends that the authorities of Liechtenstein adopt an all-encompassing strategy to combat all forms of racial discrimination in all fields of life.
103. In particular, ECRI strongly recommends that the authorities of Liechtenstein reinforce without delay the civil and administrative legal framework aimed at combating racial discrimination to cover all types of discrimination in all spheres of life, having due regard to ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. It stresses the importance of providing for a system of shared burden of proof with respect to discrimination to all areas of civil and administrative law and especially

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<sup>24</sup> See also above, Specialised bodies and other institutions.

<sup>25</sup> See above, Specialised bodies and other institutions.

<sup>26</sup> See ECRI General Policy Recommendation N°7, paragraphs 4 to 17 and 25 to 27 and paragraphs 6 to 8, 12 to 37 and 56 to 57 of the Explanatory Memorandum.

<sup>27</sup> Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

<sup>28</sup> Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation.

employment, training, access to housing and goods and services available to the public.

104. ECRI also recommends that the authorities of Liechtenstein continue and intensify their efforts to provide the public with information, for example through an awareness-raising campaign, about the existing provisions prohibiting racial discrimination and about any provisions that will be adopted in the future. Emphasis should be placed on the complementary relationship between civil and administrative law and criminal law, as both forms of law have a positive role to play in the fight against racial discrimination.

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