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SECOND REPORT ON LUXEMBOURG

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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

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.

At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Luxembourg is dated 7 June 1996 (published in September 1996). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Luxembourg took place on 23-26 September 2002. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the national authorities of Luxembourg for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the national liaison officer for Luxembourg whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 13 December 2002 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Over recent years, Luxembourg has taken steps to combat racism and intolerance, particularly by introducing criminal sanctions for racist or discriminatory behaviour and by creating a Consultative Commission on Human Rights. It has also set up a wide range of initiatives designed to promote the integration of immigrant children in schools. Luxembourg has made efforts to raise awareness of human rights among members of the police force and teachers.

However, some difficulties remain as regards the implementation of legislation designed to combat racism and discrimination. Current provisions should be better implemented. The way in which some officials deal with immigrants and asylum seekers is not always satisfactory. There remain too many prejudices and xenophobic stereotypes among the general public and these can lead to discrimination in the employment and housing sectors. The existence of three official languages in Luxembourg may play a role in jeopardising equal opportunities in terms of access to education and employment.

In this report, ECRI recommends that the Luxembourg authorities take additional measures to combat racism and intolerance in a number of fields. These recommendations deal in particular with the need for better implementation of current legislation, the adoption of measures designed to enhance the functioning of administrative bodies that deal with immigrants, the establishment of an independent body specialising in the fight against racism, better protection of immigrants in the employment field and the need to raise awareness among the general public and public officials of the fight against racism and intolerance.

SECTION I: OVERVIEW OF THE SITUATION

A. International legal instruments

1. Luxembourg has ratified many instruments relevant to the fight against racism and intolerance. Since the first ECRI report was published, Luxembourg has ratified International Labour Organisation Convention N° 111 concerning discrimination (employment and occupation). It has signed Protocol N° 12 to the European Convention on Human Rights, which provides for a general prohibition of discrimination. ECRI is aware that Luxembourg is preparing to ratify this Protocol and encourages the Luxembourg authorities to accelerate this process. ECRI also recommends that the Luxembourg authorities ratify the other instruments relevant to the fight against racism and intolerance which it has already signed, such as the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages and the European Convention on the Legal Status of Migrant Workers. Finally, it strongly encourages the Luxembourg authorities to sign and ratify the European Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on Nationality.

B. Constitutional provisions and other basic provisions

2. Article 11-2 of the Luxembourg Constitution states that "Luxembourgers are equal before the law; they alone are eligible for civil and military service, save as the law may in particular cases otherwise provide". Article 111 states that "every foreigner on the territory of the Grand Duchy shall enjoy the protection afforded to persons and property, except as otherwise provided by the law". Administrative case law has interpreted this provision as meaning that, unless legislation indicates the contrary, foreigners should be treated in exactly the same way as Luxembourg nationals.

- **Legislation on nationality**

3. The law on nationality was amended in 2001. ECRI notes with satisfaction that, in order to obtain Luxembourg nationality through naturalisation, the period during which the applicant must have resided permanently in the country before submitting an application has been cut from ten to five years, and that the procedure is now free of charge. The new law requires applicants to show an adequate degree of integration, in particular by demonstrating an active and passive knowledge of at least one of Luxembourg's official languages, i.e. French, German or Letzeburgisch, and, in every case, basic knowledge of Letzeburgisch, supported by official certificates or documents. Any person wishing to obtain Luxembourg nationality through naturalisation is required to relinquish their original nationality, since Luxembourg does not allow dual nationality. ECRI has learned that, in correlation with a government declaration issued in 2002 in favour of dual nationality, the Luxembourg authorities have commissioned an expert to draft an opinion on the possible introduction of dual nationality into Luxembourg law. ECRI is aware of the importance from an integration point of view for immigrants to be allowed to keep their original nationality whilst also acquiring that of their place of residence. It therefore urges the authorities to amend the law accordingly, guided by the principles enshrined in the European Convention on Nationality.

C. Criminal law provisions

4. ECRI is pleased to note that the law of 19 July 1997 supplemented the Penal Code by adding new provisions designed to combat racism and intolerance. Under the terms of Article 454 of the Penal Code, discrimination is defined as any distinction made between natural persons on the grounds of their origin, skin colour, gender, sexual orientation, family situation, state of health, disability, morals, political or philosophical opinions, trade union activities or membership or non-membership, true or alleged, of a particular ethnic group, nation, race or religion. Discrimination against legal persons is also banned. Discrimination is prohibited and punishable with imprisonment or a fine where it entails the refusal to provide goods or services, refusal to recruit, disciplinary action against or dismissal of an individual. According to Article 456, the sanction is more severe if the accused holds public office and, in performing their official duties, refuses to respect a right provided by law or hinders the normal exercise of any economic activity.
5. Article 457 provides for exceptions to the ban on discrimination, including cases where nationality is a determining factor in the exercise of a profession (para. 3). Paragraph 5 contains a general clause stating that “the ban on discrimination does not apply to differential treatment provided by or resulting from another provision of law”. ECRI draws the attention of the Luxembourg authorities to the fact that this provision has a very broad scope. It should be understood in the light of the case-law of the European Court of Human Rights, according to which differential treatment that has no objective and reasonable justification - i.e. which does not pursue a legitimate aim or where there is no reasonable relationship of proportionality between the means employed and the aim sought to be realised - infringes the principle of non-discrimination.
6. The provisions that were added to the Penal Code in 1997 include Article 453, which prohibits any attack on the integrity of a corpse or desecration of a tomb. Article 457-2 states that the sanction for such an offence may be increased if it is committed on racial grounds. Under Article 457-3, it is forbidden to contest, trivialise, justify or deny publicly the existence of crimes against humanity or war crimes linked to the Holocaust.
7. ECRI notes with satisfaction that, according to Article VI of the law of 19 July 1997, in some circumstances, organisations involved in the fight against racism may associate in a court action with the public prosecutor, particularly in relation to the type of offences mentioned above, provided they obtain the consent of any individual victim.
8. Criminal legislation relating to the fight against racism provides a broad range of measures, although ECRI believes that this could be further supplemented by a prohibition on the creation of groups that promote racism, on support for such groups or on participation in their activities with the intention of contributing to racist acts. ECRI also recommends that other criminal law provisions be adopted, such as a clause stating that racist motivation constitutes an aggravating circumstance for any offence. In this context, it draws attention to its General Policy Recommendation N° 7 on national legislation to combat racism and racial discrimination, which contains guidelines concerning appropriate criminal law provisions in this field.

9. Since the law of 19 July 1997 was adopted, criminal law provisions aimed at combating racism and racial discrimination have rarely been applied and have given rise to very few sanctions by the courts, in spite of a campaign to raise public awareness of the content of the law. The Office of the Attorney of the Court of Luxembourg has asked the police to draft a report on racist acts. The report covering 1999, 2000 and 2001 describes a small number of cases (three in 1999, ten in 2000 and fourteen in 2001), mainly involving racist or antisemitic insults or graffiti. In the most serious cases, the offenders were not identified. No cases of physical violence with a racist motive were recorded.
10. One of the reasons often given for the scarce implementation of criminal provisions aimed at combating racism and discrimination is the small size of the country and the resulting close community relationships. It is suggested that criminal prosecution is rarely considered the best way of resolving these cases. It has also been mentioned that the victims of racist acts are often vulnerable people who, fearing reprisals if they go to the courts, choose not to do so. ECRI considers that the members of the police and the prosecuting authorities should continue to pay due attention to the racial aspects of certain cases and should not hesitate to instigate proceedings on the basis of the relevant criminal law provisions. It urges the Luxembourg authorities to continue their educative and awareness-raising activities among the general public, but also among members of the criminal justice system, concerning criminal law provisions aimed at combating racism and racial discrimination and the need to invoke or apply them whenever necessary. In this way, the effective implementation of these provisions could be strengthened.

D. Civil and administrative law provisions

11. Article 3 of the law of 27 July 1993 on the integration of foreigners in Luxembourg provides that "all discrimination against a person, a group of persons or a community on grounds of the race, colour, ancestry, national, ethnic or religious origin of that person or group or of certain members of the group or community is prohibited". Other than this clause, which does not make provision for any specific sanction and can only be considered as a guideline¹, there is no civil or administrative law provision banning racial discrimination.
12. Nevertheless, the Luxembourg authorities are currently taking steps to transpose 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. ECRI points out in this respect that these Directives require the introduction of civil and administrative law provisions prohibiting direct and indirect discrimination in many different fields. They also demand that the burden of proof be shared between the alleged victim of an act of discrimination and the accused. ECRI encourages the Luxembourg authorities to take into account the guidelines set out in its General Policy Recommendation N° 7 on national legislation to combat racism and racial discrimination.

¹ See *Administrative Court judgment of 26 March 1998, Saraiva Carolla, Pasicrisie administrative 1/2000*, p. 121

E. Specialised bodies and other institutions

- National Council for Foreigners

13. The National Council for Foreigners (CNE) was established through the law of 27 July 1993 on the integration of foreigners in Luxembourg and social action for foreigners². This advisory body is responsible for studying all issues relating to foreigners and their integration. It submits opinions to the government, either on its own initiative or on request, particularly concerning any Bills that affect foreigners or policy on foreigners. The CNE may also submit proposals to the government aimed at improving the situation of foreigners in Luxembourg.
14. The CNE comprises thirty members, fifteen of whom represent foreigners. The other fifteen represent important organisations such as trade unions and employers' federations, associations of municipalities, foreigners' associations and some government ministries. Members of the CNE are appointed by the Ministry of the Family. The CNE is made up of three permanent special commissions, which deal with issues relating to frontier workers, the municipal advisory commissions for foreigners and the fight against racial discrimination. It also has three special departments that work on issues linked to education, foreign women and non-EU refugees and foreigners.
15. Aware that the National Council for Foreigners plays a vital role in a State in which foreigners make up 37% of the total population, ECRI draws the attention of the national authorities to the need to promote the action of this body by providing it with all the human and material resources it needs to carry out its role in the best possible conditions.

- Permanent Special Commission against Racial Discrimination

16. The Permanent Special Commission against Racial Discrimination (CSP-RAC) was created in 1996 under the auspices of the National Council for Foreigners³. Its role is, either on request or on its own initiative, to draft opinions and proposals for action against any form of racial discrimination and to prepare projects and programmes in various fields aimed at developing mutual understanding between the different communities living in Luxembourg. This Commission is actively involved in training public officials and raising their awareness of the fight against racial discrimination and their relations with the immigrant population.
17. The CSP-RAC was designated by the Luxembourg authorities as the national body responsible as regards the International Convention on the Elimination of All Forms of Racial Discrimination for receiving and examining complaints from persons and groups of persons under the jurisdiction of the Luxembourg courts who claim to be victims of a breach of any one of the rights enshrined in that instrument. It is required to submit these complaints to the Committee for the Elimination of Racial Discrimination. To date, no such complaints have been brought to the CSP-RAC.

² According to Article 1 of the Law of 27 July 1993, the term "foreigners" covers all persons who do not have the citizenship of Luxembourg and who have their residence on the territory of the Grand Duchy. It also covers asylum seekers and stateless persons. It is in this sense that ECRI uses the term "foreigners" in paragraphs 13 to 15 of this report.

³ See paragraph 14

18. The Commission is also competent to deal with complaints concerning all forms of discrimination. It may submit an opinion to the complainants or try to resolve the matter by acting as a mediator or referring the case to an appropriate court. With the complainants' consent, the Commission may send a detailed non-binding opinion to the authorities concerned. So far, very few complaints of this sort have been submitted to the CSP-RAC. ECRI encourages the authorities to provide the general public with more information about the existence and role of this Commission. It urges them to provide it with all the human and material resources it needs to perform its tasks in the best possible conditions.
19. ECRI believes that the Luxembourg authorities should consider either increasing the remit of this Commission or setting up an independent national body, specialising in the fight against racism and intolerance, in particular to receive complaints, to help victims of racism or racial discrimination and to try to bring about reconciliation or refer cases to the appropriate courts. This body should be given responsibility for carrying out studies of racism and intolerance in Luxembourg. In this respect, ECRI draws attention to its General Policy Recommendation N° 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, which contains guidelines on this subject.

- ***Consultative Commission on Human Rights***

20. The Consultative Commission on Human Rights was established by government regulation on 26 October 2000. This Commission is a governmental advisory body, which drafts opinions and reports either at the government's request or on its own initiative. It can propose measures and action plans designed to protect and promote human rights, particularly in schools, universities and the workplace. It has a sub-committee with specific responsibility for discrimination issues.
21. ECRI welcomes the creation of this body, and recommends that the Luxembourg authorities should increase the status of this Commission by safeguarding its existence and independence through the adoption of a constitutional or legislative instrument. It also hopes that the government will pay full attention to the opinions given by this Commission, particularly those concerning issues related to the fight against racism and discrimination.

- ***Municipal advisory commissions for foreigners***

22. The municipal advisory commissions for foreigners were established under the terms of a Grand Ducal Regulation of 5 August 1989. Every municipality in which more than 20% of the population is foreign must have such a commission. They represent the interests of foreign residents at municipal level and are particularly responsible for promoting the participation of foreigners in municipal life, suggesting to the authorities solutions to specific problems that affect foreigners, facilitating relations between foreigners and Luxembourg nationals within the municipality and promoting relations between the municipal administration and foreigners.

23. A municipal advisory commission is composed of equal numbers of Luxembourg nationals and foreigners, all appointed by the municipal council. Some representatives of civil society would like these commissions to be more representative of foreigners and suggest, firstly, that a larger proportion of places should be allocated to foreigners and, secondly, that foreigners should be able to elect the members of these bodies. ECRI thinks that these steps could indeed strengthen the status and role of these commissions, which are key to the integration of foreigners in the local population, since they enable them to play an active part in municipal life. It encourages the Luxembourg authorities to re-examine the status of municipal advisory commissions for foreigners with a view to making them more representative and more effective.

- **Others**

24. ECRI has been informed of plans to appoint an Ombudsman in Luxembourg. The Ombudsman would be responsible for receiving claims from any person who considered their rights had been breached by one of the various public authorities. ECRI hopes that this plan will be implemented very soon so that relations between members of the public and officials can be improved⁴. ECRI also hopes that the Ombudsman will be given a free hand to deal with difficulties linked to racism or racial discrimination in relations between the administration and the public and that it will devote the necessary attention to these issues, in collaboration with other existing bodies such as the Permanent Special Commission against Racial Discrimination.

F. Education and training/awareness-raising

25. ECRI is pleased to note that human rights training is provided for the police, prison staff and members of the judiciary. It encourages the authorities to continue and step up their efforts in this field, ensuring that elements of this training focus more specifically on the issues of racism and discrimination. It stresses the need to offer this type of training and awareness-raising to all public officials who come into contact with minority groups such as asylum seekers and immigrants, in order to enhance relations between these groups and the administration⁵.

26. Although schools do not offer specific human rights lessons, ECRI notes that this subject is tackled in a cross-disciplinary way at various levels and in different subjects, such as history and languages. ECRI is pleased to learn that teachers are trained in human rights and hopes that such training will be continued and developed. ECRI urges the authorities to take steps to enhance pupils' mutual understanding as concerns the various minority groups living in Luxembourg, whether they have been established there for a long time or whether they arrived more recently. It also feels that the teaching resources used at all stages of education should better reflect the different components of Luxembourg society.

⁴ See paragraph 41

⁵ See also paragraph 41

G. Reception and status of non-citizens

- *Refugees and asylum seekers*

27. Luxembourg ratified the Geneva Convention on the Status of Refugees a long time ago and organised the asylum procedure through the law of 3 April 1996, amended by the law of 18 March 2000, establishing a procedure for the examination of asylum applications and temporary protection arrangements. The number of asylum seekers in Luxembourg has risen dramatically in recent years, shooting up from 114 in 1990 to 3 000 in 1999. Most asylum seekers originate from the Balkans and Albania.
28. In addition to refugee status, Luxembourg has established temporary protection arrangements to deal with the arrival of large numbers of persons fleeing regions hit by armed conflict, war or widespread violence. Persons benefiting from these arrangements may still apply for refugee status in the sense of the Geneva Convention. They are entitled to family reunification and the same social benefits as asylum seekers. In principle, they may not work. The temporary protection arrangements have so far only been applied to people fleeing the armed conflict in Bosnia.
29. The asylum procedure is operated by the Ministry of Justice, assisted by the "Government Commissioner's Office for Foreigners". The latter is attached to the Ministry of the Family and deals particularly with social issues. Asylum seekers are entitled to the services of an interpreter and a lawyer free of charge. They receive social benefits as stipulated by the Grand Ducal Regulation of 4 July 2002. These benefits cover essential needs such as accommodation, food, emergency medical care and social security, as well as providing practical help with public transport in particular. Housing is provided by the "Government Commissioner's Office for Foreigners", which assigns asylum seekers to the various public reception centres, centres run by non-governmental organisations or private housing. All social benefits are withdrawn fifteen days after an asylum seeker has received notice that his or her application has been rejected. However, the reasons for such a withdrawal of benefits must be given and an appeal may be lodged.
30. It has been brought to ECRI's attention that the housing conditions of asylum seekers are not always adequate, particularly in the State-run Don Bosco centre in Luxembourg City, which is over-populated and does not meet minimum standards of hygiene and comfort. The Luxembourg authorities have admitted that they have had major problems accommodating asylum seekers, since national provision is insufficient to meet the needs of everyone, ECRI has learned of difficulties faced in the setting up of centres for asylum seekers due to a lack of co-operation from some municipalities, which are refusing the creation of such structures in their districts ECRI urges the Luxembourg authorities to do all they can to break this deadlock and provide all asylum seekers with decent living conditions.
31. ECRI's attention has been drawn to some inextricable situations faced by asylum seekers once their application has been finally rejected. Some refuse to leave the country or are unable to do so because they do not possess a passport from their country of origin. They have no legal status. The authorities, who are unable to deport them, decide on a case-by-case basis whether or not to grant social benefits which should, in principle, be withdrawn. ECRI strongly encourages the authorities to consider this issue and find a solution which does not infringe the dignity of these people.

32. In general, ECRI's attention has been drawn to the existence of sometimes difficult relations between asylum seekers and the administration, particularly the Ministry of the Family. ECRI has been told that there is a rapid rotation of staff working with non-citizens, which does not aid communication⁶. It notes with satisfaction that additional long-term appointments have been made at the service of the Government Commissariat for Foreigners in order to avoid frequent changes of the staff. ECRI urges the Luxembourg authorities to grant to the administrative bodies involved sufficient human and financial resources to enable them to operate in the best possible conditions, for the benefit of asylum seekers and officials alike.
33. Asylum seekers are not allowed to work while the procedure is underway. Since this can be fairly lengthy process, ECRI believes that it would be opportune to consider allowing asylum seekers to work, in certain circumstances, or, at least, to receive training in preparation for their future status as refugees in Luxembourg or for their return to their country of origin. ECRI is therefore pleased to learn that several non-governmental organisations are endeavouring to promote the integration of asylum seekers in co-operation with the Luxembourg authorities by offering them vocational training opportunities. It urges the Luxembourg authorities to continue to support and develop projects of this type. In this respect, it draws attention to the motion passed by the Luxembourg Chamber of Deputies on 22 March 2001, which invites the government to adopt a whole series of measures of this kind, and strongly encourages the Luxembourg authorities to implement these measures.

- ***Regularisation procedure for immigrants with no legal status***

34. Having noted that many foreigners were living in the country in an irregular situation, the Luxembourg authorities decided to begin a procedure of regularisation, particularly for immigrants from the Balkans, most of whom had claimed asylum and whose applications were either still being considered or had been rejected without the applicant being expelled. However, they also included other categories of foreigners who were working illegally in Luxembourg.
35. To this end, the government set up a special joint unit ("cellule de régularisation des sans-papiers"), working on behalf of the ministries most directly involved. Papers were issued for either employment or humanitarian reasons. The campaign lasted from 15 May 2001 to 13 July 2001, the deadline for submission of applications. Anyone belonging to one of the seven categories listed by the government was entitled to apply.
36. Persons applying for regularisation through employment must demonstrate that they have lived and worked without interruption in Luxembourg since 1 January 2000. They must prove that they have a stable job and earn a salary at least equivalent to the minimum wage. ECRI's attention was drawn to the fact that some people may find it difficult to prove that they have been employed without interruption because, even though they are not subject to any criminal or administrative sanction, certain employers prefer to dismiss them rather than admit that they have employed them illegally and pay the backlog of social security contributions, which must be paid if papers are to be issued. Moreover,

⁶ See also the section on access to public services, below

persons applying for regularisation have often held insecure, irregular jobs with different employers. ECRI hopes that the special government unit will take these aspects into account in order to help people in this situation to obtain the regularisation of their situation.

37. The government has also made it possible for persons who fled the war in Bosnia to obtain the regularisation of their situation, provided they have lived in Luxembourg without interruption since 1 July 1998. In order to prove that they meet this condition, applicants can, in principle, call upon witnesses, but are sometimes also required to provide additional evidence, which is often difficult for persons who have been living illegally. ECRI encourages the Luxembourg authorities to take into account this specific situation in order to resolve the difficulties which exist.
38. By 24 June 2002, 2 882 people had applied for regularisation. 1 520 had obtained a temporary residence permit, 341 applications were turned down and the remainder were still being considered. ECRI notes that some non-governmental organisations feel that the campaign of regularisation should also have been aimed at persons fleeing to Luxembourg following the Kosovo conflict. Most of these people are from Montenegro and arrived after 1 July 1998, which is why they were excluded from the recent procedure. The Luxembourg government has refused to open a second procedure of regularisation for these people. However, ECRI hopes that their fate will be considered on a case-by-case basis and that the fundamental rules of human rights and the situation in the person's country of origin will be taken into account before any decision to expel them is even considered. ECRI notes that, on 19 July 2002, Luxembourg ratified a readmission agreement between BENELUX and the Federal Republic of Yugoslavia, designed to facilitate the return of these people to their country of origin. This agreement will enter into force once ratified by all States Parties.

- ***Placement "at the government's disposal"***

39. When it is impossible, for practical reasons, to implement an expulsion or refoulement order, a foreigner living illegally or whose application for asylum has been rejected may be placed "at the government's disposal", i.e. held in a Centre for the temporary stay of foreigners living illegally in the country a period of one month, which may be extended twice, each time for a further one-month period. This Centre was set up by Regulation of the Grand Duchy of 20 September 2002 and consists of a special unit in Luxembourg's only prison. The Regulation provides that, during their stay, the administrative detainees are clearly separated from other detainees.
40. ECRI is aware of the efforts made by the Luxembourg authorities to deal appropriately with administrative detainees, particularly by offering them psychological and social assistance. However, ECRI is concerned that non-governmental organisations' requests to visit facilities where people are to be detained for administrative reasons have been refused and recommends that the Luxembourg authorities give a positive reply to such requests.

H. Access to public services

41. ECRI's attention has been drawn to allegations of certain acts of discriminatory or offensive conduct towards non-citizens by officials working in various national or local administrative departments. Some are reported to be failing to apply the law systematically, creating a gulf between the law and reality. ECRI is worried by the negative impact this could have on non-citizens and their integration into Luxembourg society. Since the country is so small, not all victims of such behaviour dare appeal to a higher authority. ECRI asks the Luxembourg authorities to consider these issues and to find solutions, particularly by raising the awareness of public officials⁷. This could be achieved by means of guidelines issued to all officials, reminding them of the relevant legislation. ECRI also urges the authorities to take sanctions in the most serious cases in order to combat such behaviour more effectively⁸. In this context, ECRI welcomes the forthcoming creation of an Ombudsman⁹. It also believes that, in order to facilitate dialogue, officials who come into contact with non-citizens should be offered training in respect for human rights and cultural differences.

- Access to housing

42. There is currently a housing shortage in Luxembourg, which has led to a sharp rise in house prices. This makes it particularly hard for asylum seekers, who are not allowed to work, and immigrants who are on low incomes because they are employed in unskilled posts. In the private sector, ECRI is concerned by reports of discrimination against immigrants from the former Yugoslavia and Cape Verde in particular. ECRI strongly encourages the Luxembourg authorities to resolve this situation, particularly by adopting and applying legislation prohibiting discrimination in the housing sector and by taking action to raise awareness among property owners and housing professionals.

43. ECRI notes that there is also a shortage of social housing, particularly housing suitable for large families¹⁰. Some reports suggest that this situation is having a harmful effect on families of non-EU immigrants, mostly from modest backgrounds, who cannot afford expensive private-sector housing. ECRI urges the Luxembourg authorities to resolve the social housing problem as quickly as possible.

- Access to education

44. ECRI is pleased to note that, as pointed out in a circular sent by the Ministry of National Education to school head teachers on 2 October 2000, all children of school age must be enrolled with a school, irrespective of their parents' status.

45. The Luxembourg authorities are aware of the challenge they face in the education field as a result of the large number of migrant workers and asylum seekers who have arrived in Luxembourg. ECRI welcomes the fact that a debate on integration in schools was held by the Chamber of Deputies in 2000. This debate resulted in a motion calling on the government to take a whole series of measures to facilitate

⁷ See also paragraph 25

⁸ See the section on criminal law provisions, above

⁹ See the section on Specialised bodies : others, above

¹⁰ Regarding housing for asylum seekers, see the section on asylum seekers, above

the integration of foreign children into Luxembourg schools. ECRI approves the measures set out in this motion and strongly encourages the Luxembourg authorities to maintain their efforts in this field.

46. As far as the children of asylum seekers are concerned, ECRI welcomes the appointment of five intercultural mediators from these children's countries of origin. Their role is to facilitate contact between teachers, families and children. ECRI encourages the Luxembourg authorities to continue these efforts and to step up their attempts to make it easier for children of asylum seekers to attend school.
47. Special integration classes are also provided for primary and secondary school children arriving in Luxembourg for the first time. ECRI welcomes this initiative. According to some reports, these children are not always placed on the course or in the class best suited to their level of knowledge and intellectual abilities. ECRI invites the Luxembourg authorities to increase their efforts to ensure that children arriving in Luxembourg receive an education that is appropriate to their ability level.
48. ECRI deals with linguistic issues relating to access to education in the section on "issues of particular concern".

I. Vulnerable groups

This section covers certain minority groups, which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

- Foreign workers

49. Luxembourg has a large foreign workforce, with some workers living in Luxembourg and some across the border. They meet a significant demand in the labour market. ECRI recommends that the Luxembourg authorities take all necessary measures to promote the integration of non-citizens into the employment sector and to eliminate any discrimination that might occur in this field, particularly in terms of access to jobs, promotion, salaries or redundancy.
50. It has been brought to ECRI's attention that a certain number of non-citizens are employed illegally in Luxembourg, particularly in the hotel and restaurant industry and in unskilled posts. These workers include asylum seekers who are forbidden to work and immigrants living in Luxembourg without the necessary residence and work permits. These people are particularly vulnerable to abuse by employers (lower salaries, dangerous working conditions, excessively long hours, lack of insurance or accident cover). ECRI stresses the need to combat illegal employment and to ensure that measures taken in this direction target the employers who exploit these workers rather than the workers themselves. Moreover, steps should be taken to help workers and their families who find themselves in a very difficult situation when their source of income is blocked.

J. Conduct of certain institutions (at national and local levels)

- Law enforcement officials

51. The Luxembourg authorities refer to some incidents between members of the police and some immigrants, although violence is rare and it is usually a case of mutual provocation and a lack of mutual understanding. In this respect, ECRI points out that, if the police were made more aware of cultural differences, their relations with the immigrant community could be improved. It encourages the authorities to continue their efforts to provide basic and further training in human rights for members of the police.
52. ECRI has learned of the difficulties sometimes faced when statements are made to the police by victims or alleged offenders who do not speak any of Luxembourg's official languages. Professional interpreters are not always used in these circumstances, which can lead to complications or misunderstandings. ECRI firmly encourages the Luxembourg authorities to resolve this problem by making all the necessary human and material resources available to ensure that foreigners can communicate properly with the police.
53. ECRI is pleased to hear that an independent police complaints board was established on 1 January 2000. Persons who believe they are victims of racist or discriminatory conduct by the police can therefore complain to this body, which will carry out an independent enquiry. Following such an enquiry, the police authorities may take disciplinary action and, if necessary, the case may be forwarded to the Office of the Attorney General for criminal proceedings. Generally speaking, the number of complaints submitted to the police complaints board has been steadily rising since 2000, which mainly seems due to the growing awareness among the general public that this new body exists. Among those complaints, those which report the racist or discriminatory behaviour of a police officer are rare; they are often set aside, due to an absence of proof of the facts.

K. Climate of opinion

54. Violent acts of racism are rare in Luxembourg. Strictly speaking, there are no organisations or political parties that promote racism. However, many reports refer to an insidious racism that is seen on a daily basis, particularly in the form of prejudice towards and stereotyping of non-citizens, whether they live in Luxembourg or across the border. This type of reaction seems more common when the country's stability appears threatened, especially from an economic point of view. For example, when politicians began to discuss the need for Luxembourg's population to rise to 700 000 within a few years¹¹ in order to compensate for the ageing population, there was a rather xenophobic reaction in which people became very defensive and began to display nationalist tendencies. These prejudices can be exacerbated by public rhetoric that plays on the fears of the population. In this respect, ECRI draws attention to the principles laid down in the Charter of European Political Parties for a non-racist society and hopes that these principles will be reflected in political life in Luxembourg.

¹¹ Luxembourg currently has 439 000 inhabitants

L. Monitoring the situation in the country

55. ECRI encourages the Luxembourg authorities to consider ways of setting up a consistent, comprehensive data collection system so that they can evaluate the situation of the various minority groups living in Luxembourg and gauge the scale of racism and discrimination in the country. Such a data collection system should respect national law and European regulations and recommendations concerning data protection and the protection of privacy, as indicated in ECRI's general policy recommendation N° 1 on combating racism, xenophobia, antisemitism and intolerance. During the collection of data, the authorities should particularly ensure that they respect the anonymity and dignity of the persons questioned and obtain their full consent.

M. Media

56. Generally speaking, the media adopt a responsible approach to issues connected with immigration and the different cultures that exist in Luxembourg, as demonstrated by the immediate reaction to the terrorist attacks of 11 September 2001. The media often co-operate with sections of civil society that specialise in these issues. However, ECRI is concerned that there has been a certain deterioration in this area, noting that the media have shown less tolerance for some time, particularly towards the Muslim community, which has sometimes been the subject of negative coverage and stereotyping¹².
57. ECRI regrets the fact that, although they appear only occasionally, racist or antisemitic ideas are published in the press, particularly in letters to the editor or the gutter press. It also notes that, despite the adoption of a code of ethics by the Press Council in 1995, some newspaper articles reporting criminal offences mention the nationality of the offender, when this is actually irrelevant. Nevertheless, ECRI notes that this has become less common in recent years. It believes that media professionals should be alerted to the dangers of publishing such information. In this respect, it strongly supports the adoption and implementation by media professionals of training programmes and guidelines that promote more responsible reporting of crimes.

SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues, which in its opinion merit particular and urgent attention in the country in question. In the case of Luxembourg, ECRI would like to draw attention to the situation of the Muslim community and to linguistic problems.

N. The situation of the Muslim community

58. Estimates of the size of the Muslim population in Luxembourg vary between 3 800 and 10 000. They therefore make up at least 1.6% of the total population. In some cities, the proportion is larger: in Wiltz, for example, almost 6% of the local population is Muslim. Islam is the second most practised religion in Luxembourg, after Catholicism. Many different nationalities are represented within the Muslim population.

¹² See the section on the situation of the Muslim community, below

59. Initially, the Muslims who came to Luxembourg mainly originated from Turkey, the Arab countries, India and Pakistan. Following a labour agreement signed in 1970 between Luxembourg and the former Socialist Federal Republic of Yugoslavia, 2 241 migrant workers and their families, mainly from Montenegro, had moved to Luxembourg by 1 March 1991. The war in Bosnia also resulted in a mass influx of Muslims, principally asylum seekers from that country and surrounding regions. In 1998 and 1999, 4 049 people from Kosovo and Montenegro arrived in Luxembourg. Most of these people are Muslim. At present, 65% of the Muslim population in Luxembourg is of Bosnian origin. A very high proportion of Muslims in Luxembourg are non-EU citizens who do not enjoy the rights and benefits reserved for Luxembourg nationals and EU citizens (such as the right to vote in local elections).
60. The Islamic Cultural Centre in Mamer was set up in 1984 and brings together most Muslims in Luxembourg. An Imam of Bosnian origin conducts religious services and the centre provides a range of cultural activities such as religious education for children in different languages. Other Muslim associations exist in different parts of the country.
61. There have been no recorded acts of physical violence against Muslims in Luxembourg, even following the events of 11 September 2001. Instead, the media and general public have shown a positive interest in Muslim culture since the growth of the Muslim population in Luxembourg, particularly following 11 September 2001. However, very recently, public opinion, reflected in the media, seems to have changed and ECRI is concerned by the emergence of a certain intolerance, prejudice and stereotyping of the Muslim community. It particularly warns against the view that the integration of Muslim foreigners is impossible in Luxembourg because of the cultural gap between Muslims and the majority of the population.
62. Following a controversy surrounding ritual animal slaughter, provoked in particular by a strand of opinion in favour of the protection of animals, the Prime Minister declared that ritual slaughter was prohibited on Luxembourg soil because it infringed animal protection legislation. Some people have called for a ban on imports of meat derived from ritual slaughter, which would mean that this meat could not be consumed at all in Luxembourg. Such a ban would also have indirect repercussions on the ritual animal slaughter practised by the Jewish community. ECRI urges the Luxembourg authorities to respect the principle of secularity as well as religious traditions and not to take radical measures, which would create tensions amongst the population and fuel prejudices towards certain religions.
63. A series of press articles on terrorism published in Luxembourg in 2002 also proved highly controversial. ECRI notes that certain parallels were drawn between terrorism and the Islamic Cultural Centre in Mamer. It deplores this kind of rhetoric, which serves to create or reinforce a climate of suspicion. However, ECRI notes that there has been some opposition in the press to this kind of sweeping generalisation and that some newspapers have allowed representatives of the Centre to express their point of view. ECRI condemns any excessive, unfounded accusation, which implicates the Muslim community as a whole without distinguishing between Muslims and extremists. It strongly encourages the Luxembourg authorities to monitor this situation closely and to take all necessary measures to raise public awareness of the dangers of religious intolerance. It believes that dialogue must be maintained between the Muslim community and

national and local authorities, and also between the different religious communities.

64. In this context, ECRI points out that an application has been made to the State for official recognition of the Muslim religion. The Catholic, Protestant, Jewish and Orthodox religions already enjoy such recognition and an application from the Anglican faith is currently being considered. The application for recognition of Islam was submitted in 1998 and was recently supported by a petition signed by 3 000 people.
65. Official recognition would enable the Muslim religion to be more widely acknowledged throughout the country, to enjoy the same advantages as the other recognised religions and, in particular, to hold discussions at the local level concerning the creation of Muslim areas in cemeteries. ECRI notes with interest that the government and a large proportion of the public are in favour of such recognition. However, according to information provided by the Luxembourg authorities, such recognition can only be negotiated if the Muslim community appoints a single spokesperson for this purpose, which is not an easy task, given the diversity of cultures and origins represented within that community. ECRI has nevertheless been informed that a solution appears to be taking shape and that recognition could be granted in the near future. ECRI believes that a positive approach to Islam could enhance the integration of non-EU foreigners into Luxembourg society.

O. Linguistic problems in Luxembourg

66. With regard to legal provisions on languages in Luxembourg, Article 29 of the Constitution stipulates that "the law shall regulate the use of languages in administrative and judicial matters". According to the law of 24 February 1984, "the French, German or Letzeburgisch language may be used" in administrative and judicial matters. Communication with the administrative authorities may be made in any of these languages, although the authorities are not strictly obliged to reply in the same language. The principal amendment contained in this law is to elevate Letzeburgisch to official language status.
67. In 2001, 37% of Luxembourg's total population of 439 500 was composed of foreigners (compared to 18.4% in 1970). Almost 60% of these were Portuguese, followed, in order of size, by French, Italian, Belgian, German, Yugoslavian and other nationalities. More than 100 000 people cross the border every day, mainly from France and Belgium, to work in Luxembourg. According to a study carried out in 1998, 96% of foreigners living in Luxembourg claim to use French more or less regularly. 81% use German and 80% Letzeburgisch. French has become the language of communication between people with different mother tongues who live or work in Luxembourg. It is widely used in the workplace.
68. As far as education is concerned, the language used in nursery schools is Letzeburgisch. Lessons in primary schools (first six years of education) are given, in German. Secondary education is then split into two branches: vocational education, which is mainly conducted in German, and general education, which is first in German and then, from the intermediate class, in French.

69. Children at primary schools follow classes in German, except for classes of French which start in the middle of the second year of studies. This requirement that mainly German be used puts immigrants' children, most of whom are Portuguese- or primarily French-speaking, at a disadvantage. Some children who are better at French therefore attend school outside Luxembourg, either in France or Belgium. Consequently, they hardly ever come into contact with the Letzeburgisch language, which is nevertheless a factor of social integration, particularly as a basic knowledge of the language is required in order to acquire nationality through naturalisation¹³. Children who are educated in Luxembourg are sometimes placed in classes not on the basis of their intellectual abilities, but rather on account of their fluency in a particular language. The Luxembourg authorities are aware of this problem and an increasing number of vocational and traditional courses are being provided in both French and German so that pupils can follow either of these options without having to speak a particular language. ECRI welcomes this development and encourages the authorities to continue their efforts in this area. The parents of most immigrant children do not speak either Letzeburgisch or German. Furthermore, they tend to occupy a fairly low position on the sociocultural scale. ECRI feels that, in order that language does not become another sociocultural barrier that hinders equal opportunities, the Luxembourg authorities should ensure, perhaps with the help of civil society, that these children receive help with their homework from fluent speakers of the languages used in education. ECRI strongly encourages any initiative to help children learn these languages by offering support classes.
70. The fact that Letzeburgisch is now an official State language creates difficulties for immigrants, particularly immigrants of the first and second generations. To date, few people are trained to teach this language to non-native speakers and grammatical methodologies for this purpose are rare and inadequate. ECRI urges the Luxembourg authorities to resolve these problems, which make it very difficult for people with other mother tongues to learn Letzeburgisch. Letzeburgisch could then become a factor of integration, particularly in employment, rather than one of exclusion, which is still too often the case. Such a policy would help prevent the discrimination and disparagement, which sometimes results from a lack of knowledge of this language.
71. Knowledge of Letzeburgisch among adult immigrants is generally inadequate, which may contribute to their exclusion from society. This jeopardises equal opportunities in terms of access to civil service employment and other skilled posts, which require knowledge of this language, and may prove a barrier in access to citizenship¹⁴. ECRI is aware of the enormous efforts that national and local authorities have made to promote adult learning of Letzeburgisch, particularly by giving people the chance to attend evening classes at language centres at little cost. However, ECRI feels that it is not always easy to attend evening classes and that, as is already the case in some companies, employees should be offered lessons during normal working hours. ECRI invites the Luxembourg authorities to support initiatives of this kind. It is also important to overcome the lack of motivation among immigrants, who hardly ever need to use Letzeburgisch at work and who, whenever they try to communicate in this language in everyday life, often receive replies in French.

¹³ See paragraph 3

¹⁴ See paragraph 3

72. ECRI believes that having three official languages in Luxembourg gives the country's population great opportunities and benefits. It calls on the Luxembourg authorities to ensure that the problems that can result are clearly identified. Every effort must be made to promote the social integration of immigrants, whatever their origin, so that social cohesion would not be threatened, for example, if the economic situation were to deteriorate.

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