

**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

Seventieth session

Geneva, 19 February – 9 March 2007

QUESTIONS PUT BY THE RAPPORTEUR

**IN CONNECTION WITH THE CONSIDERATION OF
THE THIRD PERIODIC REPORT OF
LIECHTENSTEIN
(CERD/C/LIE/3)**

ANSWERS OF LIECHTENSTEIN

General information

- 1. Please provide examples, if any, of direct application of the Convention by domestic courts.*

Due to the small size of the country and its population, domestic case law is, in general, not as diverse and dense as in larger states. At the same time, Liechtenstein courts tend to use Austrian and Swiss case law as a reference for their judgments, especially in cases where the relevant legal provisions are based on Swiss or Austrian law. As regards this Convention, Swiss law is the main reference for the relevant article in Liechtenstein criminal law, while the relevant civil law provisions are of different origin (mostly Swiss and Austrian).

So far, there has not yet been any case where provisions of the Convention have been directly invoked as a basis of either a complaint or a judgment. This is, however, not so surprising given the fact that Liechtenstein has only been a party to the Convention since 2000. In addition, the large correlation of the provisions of the Convention in respect of civil rights with the provisions of the European Convention on Human Rights, as they have been further developed through the case law of the European Court of Human Rights, tends to benefit the latter instrument since Liechtenstein has been a State party to the ECHR for almost 25 years and the ECHR's rulings are legally binding.

As a comparison it can be mentioned that, since the last report on the implementation of the ICERD was submitted, five cases have been brought before the courts based on the transposition of Article 4 of the Convention into Liechtenstein criminal law, i.e. an average of one case a year (for further details see answer to question 11).

Article 1

2. *Does a definition of racial discrimination exist in domestic law? If so, is it in keeping with the definition contained in article 1 of the Convention?*

§ 283 of the Criminal Code (racial discrimination) was expanded before Liechtenstein's accession to the Convention so as to ensure a definition of racial discrimination under domestic criminal law that covers article 1 of the Convention. The detailed formulation of the definition refers primarily to incitement to hatred or discrimination on the basis of race, ethnicity, or religion or the dissemination of ideologies or propaganda to that effect.

§ 321 of the Criminal Code (genocide) affords special protection to religious, racial, ethnic, cultural or national groups, and also covers, in terms of protected groups, the definition of the Convention.

§ 33 of the Criminal Code, which was also amended in view of Liechtenstein's accession to the Convention, stipulates aggravating circumstances for any offence that has been committed for racist or xenophobic motives. This amendment was passed by Parliament on the basis of a Government report which explicitly referred to the wording of article 1 of the Convention. That Government report can serve as a source for the interpretation of the amendment to § 33 of the Criminal Code.

There is no special definition of discrimination under civil law, since the protection of the person and of personality as such is already enshrined in civil law, and protection against discrimination is fundamentally entailed by this principle.

Moreover, article 14 of the ECHR, which is self-executing, contains a general prohibition against discrimination. The extent of this definition has been further developed through the case law of the European Court of Human Rights.

Finally, it can be pointed out that the reference to international treaties in article 31 of the Liechtenstein Constitution, which guarantees equality between nationals and foreigners with respect to the enjoyment of fundamental rights, encompasses all the prohibited grounds for discrimination contained in the international treaties to which Liechtenstein is a State party, including the ICERD (see answer to question 3).

Article 2

3. *Please indicate if the State party has taken any measures to follow up on the recommendation of the Human Rights Committee to ensure that the principle of equality before the law is guaranteed for all individuals under the State party's jurisdiction.¹*

¹ Para.9. Concluding Observations, Human Rights Committee, CCPR/CO/81/LIE, 12 August 2004

The equal protection clause in article 31 has been part of the Liechtenstein Constitution since 1921. Since then it has also contained a reference to international treaties with regard to the rights of foreigners. The article was only amended once, in 1992, as a result of a parliamentary motion to clearly stipulate the equality between women and men in the Constitution.

During the last two decades Liechtenstein has become a party to a considerable number of international human rights treaties, including the six core UN human rights instruments. These instruments stipulate that all rights contained therein must be protected for all persons under the jurisdiction of the State party without any distinction. Liechtenstein has also accepted all existing individual complaints procedures under those treaties. In this regard, the Constitutional Court has been given the competence to act as domestic court to hear such complaints on the national level and decide on any need for legislative change (article 15 Staatsgerichtshofgesetz).

This legal regime confers to the international human rights treaties, to which Liechtenstein is a State party, a privileged position. They are directly referred to in the Constitution. In addition, for those treaties which include an individual complaint procedure, the Constitutional Court has been given the above-mentioned competence. This competence corresponds to the competence of the Constitutional Court in respect of other provisions of the Constitution. Through the progressive accession of Liechtenstein to a considerable number of international human rights treaties in recent years, the protection regime has been continuously expanded, not the least with regard to the various grounds of discrimination that are prohibited.

The Human Rights Committee recommended last year to consider amending the Constitution in this respect. The consideration of this question needs to take into account any deficiencies in the practical application of the current legal regime. So far no individual complaint for an alleged discriminatory treatment has been lodged with the Constitutional Court under the relevant international treaties.

According to the permanent jurisprudence of the Constitutional Court since 1983, the principle of equal treatment under article 31, paragraph 1 of the Liechtenstein Constitution is also applicable to foreign persons, taking into account article 1 of the ECHR, with respect to the rights enshrined in the ECHR. Accordingly, foreign persons may also invoke the fundamental rights included in the Constitution and consequently appeal to the Constitutional Court. The ECHR is self-executing in this regard, so that the permanent jurisprudence of the Constitutional Court is protected by this international treaty, to which permanent jurisprudence accords de facto constitutional rank.

This jurisprudence has not yet been codified in a constitutional amendment and due to the mentioned case law of the Constitutional Court, it is currently not realistic to gather the necessary political support for a change to this legal regime.

This discussion is, of course, subject to article 1, paragraph 2 of the ICERD.

4. *Please provide information on the legal status of cross-border commuters in Liechtenstein, given the high percentage of workers who are not residents of Liechtenstein (para. 23 of the Report).*

Most cross-border commuters are citizens of the European Economic Area (EEA) or Switzerland. There are only very few cross-border commuters who are citizens of third States.

Liechtenstein has been a member of the EEA since 1995. According to article 28 of the EEA Agreement, article 39 of the European Community Treaty also applies to Liechtenstein, so that all provisions on the free movement of workers (primary and secondary rights) within the Community are guaranteed. These provisions include the abolition of unequal treatment of workers with EEA citizenship on the basis of citizenship (irrespective of the place of residence) with respect to employment, remuneration, and other working conditions. Regulation 1612/68 on social benefits and Regulation 1408/71 on the coordination of social security are of particular importance. As a consequence of the Vaduz Convention, more or less the same above-mentioned principles apply to workers with Swiss citizenship.

The afore-mentioned provisions ensure that workers employed as cross-border commuters enjoy the same salary and working conditions as Liechtenstein workers (this also applies to citizens of third States). However, a cross-border commuter has no citizenship or political rights (such as the right to vote) in Liechtenstein, since these rights are linked to Liechtenstein citizenship.

Unemployment insurance is tied to the place of residence. If a cross-border commuter becomes unemployed, he must therefore turn to the authorities of his place of residence. Insolvency insurance, on the other hand, is linked to the place of work, so that insolvent cross-border commuters may claim insolvency compensation benefits from the Liechtenstein authorities.

5. *Please provide information on the outcome of the consultation organized by the Prime Minister with representatives of foreigners' associations, mentioned in para. 37 of the Report.*

In 2004 (on 23 June and 30 November) the Prime Minister held two rounds of talks on the topic of "Integration in Liechtenstein: Status Quo, Measures, and Perspectives" with representatives of the foreigners' associations. 14 representatives took part in the talks. In the first round, the various foreigners' groups presented their concerns and desires; in the second, the authorities provided information on problematic areas and jointly discussed further integration steps with the foreigners' representations. While the representatives of the Swiss Association, the Austrian Association, and the South Tyrolean Association saw few integration problems for their members and primarily demanded the introduction of dual citizenship, the representatives of foreigners who did not originate from German-speaking areas demanded – in addition to dual citizenship – improved offerings of German-language courses, facilitation of naturalization, fewer restrictions on family reunification, the creation of an information and contact center for foreigners, a right to participate in the formulation of policy concerning foreigners, the right to vote at the municipal level, and financial support and premises for the foreigners' associations.

The measures initiated so far on the basis of these consultation rounds by the Government and the authorities primarily concern the further improvement of the offering of German-language courses, the establishment of an information and contact center for foreigners, and financial support for the Muslim religious community. (Other follow-up measures are mentioned in the response to question 6.) Public discussion on the two consultation rounds also provided an opportunity to further sensitize the Liechtenstein population with respect to the concerns of the foreigners' associations. The talks with the Prime Minister therefore constituted a valuable element for the political support of ongoing measures to prevent xenophobia and racism.

6. *Please describe the initiatives to promote the integration of Muslims that have been adopted by the Working Group on the Integration of Muslims in Liechtenstein, mentioned in the State party's replies to the list of issues of the Committee on Economic, Social and Cultural Rights.*²

The Working Group on the Integration of Muslims, in existence since May 2004, has initiated several concrete projects and serves as a bridge between the Liechtenstein population and the Muslims living in Liechtenstein; in this way, it provides general public outreach. A selection of the concrete projects are discussed below:

In April 2005, the Prime Minister presented the inventory of books procured by the National Library on the topic of Muslims to the broader public. This served the goal of making more extensive knowledge of the cultural and religious backgrounds and values of Islam available to the Liechtenstein population and thereby of contributing to the integration of Muslims in Liechtenstein.

In August 2005, a project was suggested to introduce Islamic religious instruction as an integration measure. In the meantime, the work on this project has progressed so far that the Government will be able to present a concept for religious instruction for primary students with a Muslim religious background in the spring of 2007. The need for such instruction can be shown, the concrete design of such instruction is now available as a proposal, and a curriculum and teaching materials have been evaluated.

In February 2006, the Government allocated a religious contribution of CHF 25,000 per year for Muslims in Liechtenstein and determined that this contribution would be included in the annual national budget in the future as well. The Working Group is currently dealing with the acquisition of premises (mosque for Muslims to practice their religion in Liechtenstein), the creation of last resting-places for Muslims in Liechtenstein, and the introduction of German-language religious instruction for Muslims by imams.

² Para. 129, Replies by the Government of Liechtenstein to the List of Issues (E/C.12/Q/LIE/1) to be taken up in connection with the consideration of the initial periodic report of Liechtenstein concerning the rights referred to in articles 1-15 of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.66), E/C.12/Q/LIE/1/Add.1, 12 April 2006.

7. *What steps has the State party taken to elaborate a national policy or plan of action for the mutual integration process between nationals and non-nationals?*

The Equal Opportunity Commission (as referred to in paragraph 40 of the report) drafted an integration policy paper and presented it to the Government in February 2006. Taking into account the comments and suggestions on the part of the Government, the paper was revised in the autumn of 2006 and again brought to the attention of the Government in February 2007. The integration policy targets consist of two documents – a position paper and a concept of action. The position paper contains integration policy guidelines and formulates the goal of the integration efforts and integration policy principles such as “advancing” and “requiring”. The concept of action describes eight social areas in which short-term and long-term integration policy measures must be implemented. These are:

1. Religion and culture
2. Upbringing/Education/School
3. Business/Labor market
4. Living/Living environment
5. Family/ Social issues/Health
6. Information and communication
7. Self-organization
8. Political participation

Fields of action are listed for each area in a programmatic way. As soon as the concept has been approved by the Government, the concrete measures will be concretized and implemented in a second step together with the affected persons, including migrants, municipal authorities, and employer associations.

For the first time, a chapter on integration was included in the provisions governing the law on foreigners, namely in the Ordinance on the Movement of Persons (PVO) of 30 November 2004, in force since 1 January 2005. This chapter is contained in articles 77-79 PVO, which set out the goal of integration, the preconditions for integration, and the promotion of integration:

Article 77: The goal of integration is the coexistence of the Liechtenstein and foreign resident population on the basis of common fundamental values and the rule of law, characterized by mutual respect and tolerance.

Article 78: It is necessary for successful integration that the foreign citizens get to know the social situation in Liechtenstein and have sufficient language skills.

Article 79: Integration in the economic, cultural, and social life of foreign citizens living in Liechtenstein for the long term is promoted.

Aside from this, the planned new Foreigners Act, which will probably enter into force in the spring of 2008, will also dedicate a chapter to the integration of foreigners.

The Immigration and Passport Office already had a budget of CHF 100,000 available for integration measures in 2006. The same amount is also available in 2007. So far, these financial resources have been used to fund a project creating an integration

course and a German course especially for foreign-language mothers and their children.

The European Commission has proclaimed 2007 the “European Year of Equal Opportunity for All”. The European Year is the heart of a framework strategy to effectively combat discrimination, convey diversity as a positive value, and promote equal opportunity for all.

Liechtenstein is actively participating in the Year of Equal Opportunity, which was opened on 12 February 2007 with the involvement of the Minister of Equal Opportunity and Family under the motto: “For Diversity! Against Discrimination!”. A wide range of activities will be implemented in the Year of Equal Opportunity to combat forms of discrimination that might affect the inhabitants of Liechtenstein:

- By the end of the year, results on the following **studies and surveys** conducted by the Office of Social Affairs and the Office of Equal Opportunity are expected: poverty study, survey on age discrimination, study on social discrimination against people with disabilities, survey on discrimination against homosexuals. A meeting on the topic of gender medicine and equal opportunity in the workplace as well as a **press campaign** entitled “At Home in Liechtenstein” are also planned by the Office of Equal Opportunity.
- The Equal Opportunity Commission has hosted a Children’s University at the Liechtenstein University of Applied Sciences for the last two years. In parallel with this event, a new “**Parent’s University**” will now be held for the continuing education of parents on the topic of equal opportunity, the promotion of tolerance for people of a different background, gender, religion, or with disabilities. The first event will take place on 25 April 2007 at the Liechtenstein University of Applied Sciences.
- The Evangelical-Lutheran Church and the Orthodox Church Association are establishing the **Internet site** www.religion.li, which will reflect the religious landscape at the national level. Its goal includes the promotion of understanding for religious diversity in Liechtenstein and the elimination of prejudices against other religions. Members of religious minorities can quickly find access to their own religious community.
- As part of the **Babylon Slam** project of the Liechtenstein Literature House, the topic of foreign-language speakers will be discussed. “Only if we are not afraid of foreigners can we give foreigners equal opportunities” – this is the starting point for the project to enter into intercultural communication, cultivate exchanges, and thereby clear up some of the Babylonian confusion of languages that people from all over the world have brought to us.
- The European Institute for Interreligious and Intercultural Research is conducting the project “**Religious Diversity**”. Through a broadly-based information campaign (traveling exhibition, brochure, symposium) on the diversity of religious communities, unevenness in perception will be reduced and equal opportunity for all will be promoted. The symposium takes place on 28 September 2007.

This only represents a selection of all the planned activities that will contribute to the reduction of prejudices and the promotion of mutual respect and incite a debate on equal opportunity in Liechtenstein.

8. *It is reported that there has been a rise in xenophobic and right-wing tendencies among youths and young adults. Please indicate whether the State party has adopted any measures to combat such tendencies.*

The mandate of the Violence Protection Commission established by the Government includes observation, documentation, and early indication of dangerous developments of the situation of right-wing violence in Liechtenstein. The Violence Protection Commission regularly informs the Government on its activities. In this connection, it has found that the right-wing extremist scene is increasingly becoming linked with foreign countries and is more strongly polarized than just a few years ago. The Government has therefore mandated the Violence Protection Commission to develop a strategy against right-wing extremism in Liechtenstein before the end of 2007. The goal is to keep the right-wing scene as small as possible and to prevent additional young people from becoming ideologized. Relevant regional and international expertise will be drawn on. Of note in this connection is also the current review of the anti-racism penal provision contained in § 283 StGB (Criminal Code) with respect to a criminalization of the carrying of racially discriminating emblems (see the response to question 25). If the law is tightened in this respect, this would make it more difficult for right-wing extremist persons in Liechtenstein to make public appearances.

The prevention campaign “Respect – please” is also concerned with youth violence and its various manifestations – including right-wing extremist violence. The campaign is being conducted by the Violence Protection Commission from February 2007 to July 2008 under the patronage of the Liechtenstein Government. The goals of the campaign include a critical discussion of the topic of youth violence, the participation of young people in finding solutions, the elaboration of measures to prevent violence, and the practice of violence-free communication and conciliatory measures. The basis of the campaign is a documentary film and pedagogical film material on the topic of youth violence that were produced and developed between 2004 and 2006. The film also underscores that youth violence should not be treated as a bagatelle and that it arises from social problems that must be taken seriously.

Article 4

9. *Does specific legislation designed to implement article 4(b) of the Convention, that is, to prohibit organizations which promote and incite racial discrimination, exist in the domestic legal order of the State party?*

§ 283 StGB criminalizes membership in an association that promotes or incites racial discrimination (paragraph 7). There are no provisions that would allow action in advance against certain organizations or prohibit such organizations. If a case arises, the individual members and leaders of the organization would be made responsible under § 283 StGB. A prohibition of such organizations could be enacted by Parliament in concrete cases by way of a special law.

10. Has the State party taken any measures to combat hate speech on the Internet?

The National Police have not undertaken any special activities against hate speech on the Internet. In principle, the National Police are able in terms of technical and human resources to prosecute Internet crime, including hate speech on the Internet. For this purpose, the National Police cooperate closely with Liechtenstein Internet service providers. In one concrete case, a Muslim was convicted of a violation of the anti-racism penal provision by the Court of Justice for disseminating hate speech against Christians and Jews in a mosque by means of a PowerPoint presentation downloaded from the Internet. The judgment is not yet final (see also question 11).

With respect to hate offenses and hate music, the National Police recently conducted a training seminar for criminal police officers in November 2006. This is, however, primarily a phenomenon of the right-wing extremist scene. Two police experts of the Federal Criminal Police Office of Wiesbaden, Germany, provided information on the category of hate crimes, which are criminal offenses arising from prejudices that are perpetrated against persons on the basis of their sexual, religious, or ideological orientation or on the basis of ethnicity, race, or nationality. A further focus is on hate music, which is especially widespread in right-wing extremist circles and which is used in a targeted way to disseminate racist content. Beyond this, it could be shown that there is in fact a direct connection between the consumption of such hate music and subsequent racist-xenophobic acts of violence.

11. Please provide information on the complaints filed, investigations and prosecutions initiated, and criminal or civil sanctions imposed on perpetrators of acts of racial discrimination.

1. August 2002: Upon entering Liechtenstein, Hungarian right-wing radicals were caught with numerous CDs with hate music, stickers, and patches with racist symbols and racist writings. The objects were confiscated, and the persons were charged for violations of § 283 StGB (dissemination of racially discriminating ideology). The Hungarian justice authorities have been requested to take over the proceedings.
2. September 2002: A woman was racially insulted in a store because of her dark skin color by another customer. The perpetrator was sentenced to a conditional monetary penalty pursuant to § 283 StGB.
3. September 2002: Upon entering Liechtenstein, a Slovak citizen was caught with posters of Rudolf Hess in his car. He was charged under § 283 StGB. The proceedings were suspended by the Office of the Public Prosecutor for lack of criminal conduct.
4. January 2003: Election posters of the Free List political party were vandalized by unknown perpetrators with sprayed swastikas. Charges were filed for damage to property and dissemination of a racist ideology. The perpetrators were not found.
5. October 2004: A Muslim was charged with a violation of § 283 StGB and sentenced to a conditional monetary penalty by the Court of Justice for

disseminating hate speech against Christians and Jews in a mosque by means of a PowerPoint presentation downloaded from the Internet. The judgment is not yet final (see also question 10).

6. October 2004: An adolescent was charged for a violation of § 283 StGB because he hung up a swastika flag in his room so that it could be easily seen from the street. He also played right-wing hate music with his window open and so loud that the music and lyrics could be heard in the neighborhood. The adolescent was sentenced for a violation of § 283 StGB, but the sentence was suspended under the Juvenile Court Act with a probationary period of three years.

No civil proceedings are known relating to racial discrimination.

Article 5

12. Please provide statistical data, disaggregated by ethnic origin, on the representation of members of various ethnic groups in different State institutions, including the Parliament.

The ethnic composition of State institutions, for instance the public administration including the political organs such as Parliament, is not known and is also not compiled for reasons of data protection. Political rights are accorded to all Liechtenstein citizens irrespective of their ethnic origin. The official statistics so far indicate neither the skin color nor the ethnic origin of the Liechtenstein resident population. The study by the independent Liechtenstein Institute in 2005 concludes that a compilation or disaggregation of personal data by skin color is irrelevant for factual reasons and is problematic with respect to the protection of privacy of the affected persons. The study recommends that the compilation or breakdown of data on ethnic origin may be considered, but that other characteristics, such as language or religious affiliation, are more relevant to the analysis of discrimination and integration deficits. The question should also be raised in principle whether ethnic attributions do not contradict the goal of the Convention.

In this connection, Liechtenstein's unusual situation should be noted, in that the whole national administration, including the justice administration, has an international composition. Justice and other officials in Liechtenstein come from Liechtenstein, Switzerland, and Austria.

The judges of the Constitutional Court (StGH) are composed of six Liechtenstein citizens, two Austrian citizens, and two Swiss citizens. The Administrative Court (VGH) consists of nine Liechtenstein citizens and one Austrian citizen. The Court of Justice is composed of seven Liechtenstein citizens, five Austrian citizens, and two Swiss citizens. Finally, the Court of Appeal (OG) consists of 21 Liechtenstein citizens, six Austrian citizens, and three Swiss citizens. The Office of the Public Prosecutor (STA) has seven prosecutors, including three Liechtenstein citizens and four Austrian citizens. The Chief Prosecutor is Austrian.

13. Please provide further information on the efforts undertaken to compile data on non-citizens in the areas of education, housing, employment, health and social security by the Working Group against Racism, Anti-Semitism and Xenophobia (para. 42 of the Report).

The two-year research mandate mentioned in the report that was carried out by an independent research center (the Liechtenstein Institute) on behalf of the Government from 2004 to 2006 resulted in a comprehensive study that was presented to the Government in March 2006. The study entitled “Statistical data on racism and discrimination in the Principality of Liechtenstein – requirements, analyses, perspectives” includes the following recommendations:

- Numerical data (hard data) from official statistics and the census should be gathered in more detail – i.e. aggregated according to specific characteristics relevant to possible discrimination.
- Additional information (“soft data”), such as the reporting of affected persons or the documentation of expert bodies on relevant incidents and developments should be gathered regularly and in a coordinated manner.
- However, it should be considered that given the small population of a country like Liechtenstein, the protection of privacy could be endangered by breaking down statistical data e.g. by ethnicity or national origin.
- It should also be considered that a breakdown of data by specific characteristics relevant to possible discrimination could additionally sharpen the perception of ethnic difference and could provide a corresponding breeding ground for discrimination. This would run diametrically counter to the goal of such data collection.

The Government took note of the report and adopted the following follow-up measures:

- The Working Group against Racism, Anti-Semitism, and Xenophobia was mandated to draft a status report on the situation of racism and integration for the attention of the Government by the summer of 2007, taking involved Government offices, associations, and organizations into account. The report is currently being prepared.
- A project group has been appointed to improve the official statistical collection of data relating to racism and discrimination. The project group has been mandated to present a proposal to the Government to improve the gathering and evaluation of such data, taking into account considerations of data protection. The report is expected by the end of 2007.

At the same time, it has to be stressed that the extent of specific statistical data gathering will also depend on restraints in staff resources at the level of the national office for statistics, which is comprised of only 9 persons, and at the level of the local authorities.

14. Please indicate what measures have been taken to improve access to housing for persons of different ethnic origin, especially asylum-seekers and women of immigrant origin.³

Persons of different ethnic origin: The housing market in Liechtenstein is a private market. There is no public housing market. The supply of available housing is very good. According to the experience of the Office of Social Affairs, there are no persons or groups of persons who do not find housing on the housing market. Landlords are free to choose to whom they want to rent housing. Some landlords exist who do not make their housing available to all persons seeking housing. Poorly integrated persons or persons of particular ethnicities do not receive available housing from all landlords without reservation. It can therefore not be said that general discrimination on the basis of nationality, ethnicity, or religion exists. Other – non-racially-discriminating – factors are more decisive. Finally, it should be noted that every person and family in Liechtenstein has so far found housing on the housing market and that there are no homeless persons.

Asylum-seekers: According to the current Law on the Acceptance of Asylum-Seekers and Persons in Need of Protection (Refugee Act), the country maintains an acceptance center in which asylum-seekers are in principle housed until a final decision on their asylum application has been taken. Additionally, several asylum-seeking families with children are housed in apartments rented by the State. Ethnically separate housing of asylum-seekers is not appropriate given the size of Liechtenstein and the low number of asylum-seekers.

15. According to the Report of the European Commission against Racism and Intolerance (ECRI), “women of immigrant origin may be less likely to be able to claim the right to family reunification than their male counterparts” under the current regulations, since they are less likely to earn enough to support their dependants (para. 35). Please indicate whether the State party intends to take any measures to eliminate such discriminatory effect of the immigration rules currently in place.

As already correctly noted in the question, the approval of family reunification does not depend on the gender of the applicant already living in Liechtenstein, but rather on the financial capacity of the applicant and the ability of the reunified family to support itself, taking into account hypothetical costs of living and the actual income at the time of the application. According to article 70, paragraph 3 of the Ordinance on the Movement of Persons, every citizen of a third State who submits an application for family reunification must demonstrate that he has long-term employment that covers the livelihood of himself and his family members or that he has sufficient financial means for his own livelihood and the livelihood of his family members, so that no social welfare assistance is required. Evidence can be provided either with an employment contract or a guarantee by a bank domiciled in Liechtenstein, so that part-time workers are also able to provide such evidence.

³ Para. 18, Concluding Observations, the Committee on Economic, Social and Cultural Rights (CESCR), E/C.12/LIE/CO/1, 9 June 2006.

It must be emphasized expressly that it does not play a role in this regard whether a man or a woman submits the application for family unification. The above-mentioned provisions in article 70 of the Ordinance on the Movement of Persons apply to both genders equally and are therefore not discriminatory. This may indirectly lead to disadvantages for female applicants with respect to granting family reunification on the basis of their worse financial situation or ability to cover their livelihood and to support their families, as a consequence of the wage discrepancy between male and female workers. To prevent such disadvantages, the primary remedy should not be to adjust the claim to family reunification in terms of equal treatment of genders – the legal provision is already neutral in this regard – but rather to harmonize the financial framework conditions and the employment opportunities of the different applicants.

Legislative proposals are now being considered in this respect, and Parliament is currently deliberating on giving the Government the authority to enact generally binding collective employment agreements. It is still unclear whether this will only be introduced at the level of legislation or even at the level of the Constitution, but the debate should be concluded by the end of 2007. This tool can then be used to level out wage discrepancies, which in turn is expected to lead to a harmonization of minimum wages and therefore also statistically to de facto equal treatment in the case of family reunification.

No statistical data is available on the number of rejected applications for family reunification. Therefore it is not possible to quantify the cases where the above-mentioned potential indirect discrimination may actually have taken place.

16. Please indicate why “only very few people have been recognised as refugees within the meaning of the Geneva Refugee Convention” in the State party, as stated in para. 25 of the State party’s replies to the list of issues of the Committee on Economic, Social and Cultural Rights?

The number of asylum-seekers has been decreasing for several years, as is the case in other countries (2004: 74 applications, 2005: 53 applications, 2006: 47 applications). Liechtenstein neither has an airport nor a seaport and can therefore only be reached via safe third States, i.e. Austria or Switzerland. This, as well as the fact that most applications are submitted for economic or personal reasons and not under the criteria of the Geneva Convention, has led to a low number of recognized refugees.

17. The replies of the State party to the list of issues of the Committee on Economic, Social and Cultural Rights (para. 25) refer to “the long duration of the asylum procedure”. Is this is a problem which affects a significant proportion of asylum seekers in Liechtenstein?

29% of all asylum applications are decided within one week, another 29% within one month, and 25% within 6 months. Only 17% of all asylum applications require more than 6 months until their final decision (including appeals).

Long asylum proceedings are facilitated by the following factors:

- up to 3 appeals instances are available to the asylum-seeker (Government, Administrative Court, and Constitutional Court);
- it is possible to submit a second asylum application;

- evidence can also be presented during appeals, which necessitates additional time-consuming clarifications;
- if the asylum-seeker has exhausted all appeals, he may submit an application for humanitarian acceptance if he has already been in Liechtenstein for at least 4 years.

18. *Please provide the recommendations of the Roundtable organised in 2005 by the Working Group for a National Action Plan against Racism “to assess the needs and problems of foreigners and minorities in dealing with the Liechtenstein health care system” (State party’s replies to the list of issues of the Committee on Economic, Social and Cultural Rights, para. 20). Which of those recommendations have resulted in concrete measures?*

- The Director of the Office of Public Health has been included in the Working Group against Racism, Anti-Semitism, and Xenophobia to coordinate integration measures in the area of public health.
- Medical practitioners have been provided with a list of interpreters and an overview of all contact offices and persons in Liechtenstein and Switzerland who offer cultural mediation. They have also received a copy of the legal foundations for the integration of foreigners (Ordinance on the Movement of Persons).
- It has been clarified with the administrators of kindergartens that the one year of mandatory kindergarten for foreign-language children does not need to be extended to two years, since experience shows that almost all foreign children already attend two years of kindergarten even without it being mandatory.
- In cooperation with the Office of Public Health, the Medical Association, and the Office of Integration and Public Health of the Swiss Canton of St. Gallen, a training event on the topic of integration and public health is planned. Because of other priorities of the medical practitioners, the event has not yet been realized.

19. *Please provide information on the findings of the multilingual survey which was conducted to assess foreign families’ needs for social assistance and care outside the home, mentioned in para. 39 of the Report.*

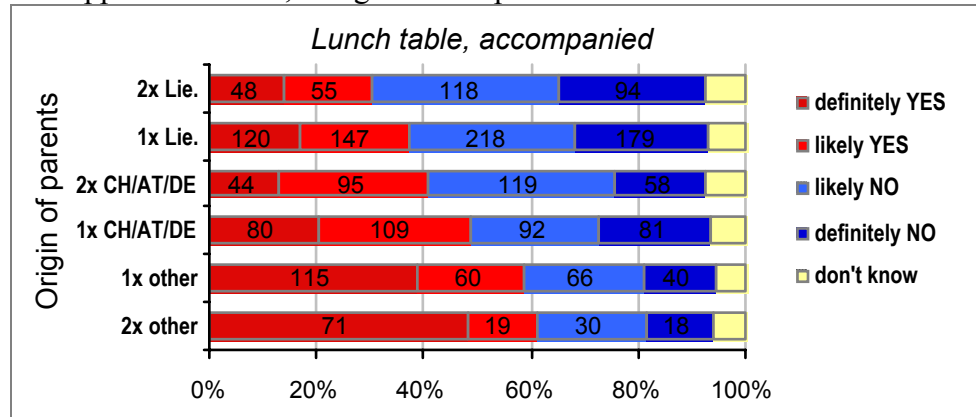
First, it should be pointed out that this survey was addressed to all families living in Liechtenstein and that it focused primarily on the supply of child support. 26% of parents indicated that they find the current supply of care of children outside the home to be good and sufficient; 41% find the supply barely sufficient; and 33% find it insufficient. The lack of an all-day school (with accompanied learning), afternoon care with homework assistance, and a lunch table for primary students was criticized most frequently.

More than 40% of the parents would currently or in the foreseeable future make use of the abovementioned additional care options for their children (definitely or probably). About half of the respondents do not need any or probably do not need any additional care options.

Several factors affect the indicated need. Of the surveyed characteristics of the families, the following turned out to be the most important: number of parents in the

household, employment of the mother, percentage of employment of the mother, origin of the parents, and number of children in the household. The origin of the family is important with respect to the need for support structures for several reasons. Keywords in this regard include income, culture, language, support by relatives, integration, etc.

The table below shows the influence of the origin of the parents on the indicated need for support structures, using the example of a lunch table.



Indicated need for support structures, using the example of a lunch table, broken down by origin of the parents. The origin is divided into three groups (Liechtenstein = Lie.; Switzerland/Austria/Germany = CH/AT/DE; Other countries = other). It is also shown whether one parent (1x) or both parents (2x) are from this group.

These figures confirm the expectations of many: The more “foreign” the parents, the more their need for support structures. However, it should be noted that native parents also indicate a considerable need.

20. Please indicate what steps have been taken to enforce the Government decision to enable foreign spouses and victims of proven domestic violence whose residence permits were dependent on their marital relationship to continue to reside in Liechtenstein.

On 23 February 2005, the Government adopted a new basic decision concerning residence after dissolution of a marital union (RA 2005/22-2524). (The new rule arose from the necessity of equal treatment of EEA and Swiss citizens with Liechtenstein citizens.) After a marriage has been declared invalid, a divorce, a legally effective separation, or abandonment of the joint place of residence before the expiry of 5 years after the residence permit has been granted, the residence of the joining foreign spouse is reviewed in principle.

According to article 7, paragraph 1 of the Swiss Federal Law on the Residence and Settlement of Foreign Nationals (ANAG), which is also applicable in Liechtenstein, the foreign spouse of a Liechtenstein citizen has the right to the granting and extension of a residence permit, as long as the marriage is legally effective. This claim also subsists when the spouses no longer live together (decision of the Administrative Court 2004/13). Pursuant to article 4 of the EEA Agreement and the Vaduz Convention and the corresponding exchange of notes between Switzerland and Liechtenstein, this rule also applies to the foreign spouses of EEA and Swiss citizens.

If the marriage is divorced, legally separated, or declared invalid before the expiry of 5 years after the residence permit has been granted, then the claim to the granting and extension of the residence permit expires, since the original ground for admission has lapsed. The residence permit of the foreign spouse is revoked or no longer extended, unless reasons such as the professional situation, the personal relationship to Liechtenstein, the degree of integration, personal conduct, or the economic or labor situation argue significantly against such a measure. It is irrelevant which spouse is at fault that the marriage failed. If it is shown that the foreign spouse cannot be expected to continue the marital union because of physical, psychological, or sexual violence, this circumstance is taken into particular account when exercising discretion for the benefit of the victim.

If the joint place of residence is abandoned, the claim of the foreign spouse to granting and extension of the residence permit does not in general expire. However, the Passport and Immigration Office will separately and orally question the two spouses and review whether a fictitious marriage (article 7, paragraph 2 ANAG) or abuse of law exists. If this is the case, the claim is lost, and the residence permit is revoked or no longer extended.

A fictitious marriage exists if the marriage was concluded solely for the purpose of circumventing the provisions on the residence and settlement of foreigners and there was never an intention to be married. Abuse of law exists if the foreign spouse invokes a marriage which is formally only maintained with the goal of receiving or not losing a residence permit. Clear indications must exist that a continuation of life companionship with the spouse originally living in Liechtenstein is no longer intended or expected.

If the marriage is between a foreign spouse and a citizen of a third State (i.e. a person who is neither a Liechtenstein, EEA, nor Swiss citizen), then the following rule applies: A claim to the granting and extension of a residence permit of the foreign spouse only exists within the framework of article 17, paragraph 2 ANAG. This means that this claim only subsists as long as the spouses live together. In addition to a declaration of invalidity of the marriage, a legal separation, or a divorce, the residence permit must therefore also be revoked or not extended in the case of a *de facto* dissolution of the joint household before the expiry of 5 years after the residence permit is granted. The residence permit is not revoked or is extended, however, under the same conditions as mentioned above under point (c) – as is the case for foreign spouses of Liechtenstein, EEA, or Swiss citizens.

In connection with spouses who could not be expected to continue the marital union because of physical, psychological, or sexual violence, it should be noted that no statistics exist in this regard. Retroactively, however, it was at least possible to assess the situation in 2006 in order to gain insight on how many people were in fact subject to the above-mentioned review. In 2006, there were a total of 6 proceedings in which the existence of violence between spouses was investigated in connection with a review of the continuing right to reside in Liechtenstein. 2 of these proceedings have already been concluded, with the result that the joining foreign spouse did not have to leave Liechtenstein and continues to enjoy the right of residence in Liechtenstein. The remaining 4 proceedings are still pending.

21. *What measures has the State party adopted to ensure that foreigners can, when necessary, be assisted by interpreters and translators during court proceedings and detention?*

Detention:

In connection with the new Enforcement of Sentences Act expected to be adopted by Parliament in March/April 2007, all the information sheets in the National Prison are being revised. As part of implementation of the new Act, internal training of the prison staff will be conducted by the middle of March 2007. In the course of this training, the information sheets to be distributed will also be discussed, and the information sheets distributed in the Feldkirch Correctional Facility in Austria will be introduced in the Liechtenstein National Prison. These information sheets will also be translated into the most important foreign languages spoken by the inmates.

The arrest warrant for foreigners has also been amended to the effect that a reference to the rights set out in the Vienna Convention (contact with consular officials of one's country) is now included as an integral component of the arrest warrant, which is served and delivered upon the inmate in the presence of an interpreter. To ensure that detainees pending trial are also informed of their rights in this regard, the police instruction on "detention" has been amended, and responsibility for the information of new detainees has been transferred to the staff of the National Prison.

Upon arrest by the police, a delinquent is informed of his rights in the presence of an interpreter. An official interpreter is also used during the medical entrance examination in the National Prison. In the correctional facility, either other inmates or official interpreters with the appropriate language skills are consulted, depending on the context.

Court proceedings:

The official language in Liechtenstein and the language of the courts is German (article 6 of the Liechtenstein Constitution). Accordingly, all submissions to court and all hearings are in German, and when reaching a decision, the court must only take into account what is available in translation.

The obligation to provide an interpreter and to translate the documents essential to the proceedings already derive from the fundamentally guaranteed procedural rights; in particular the right to a judicial hearing and a fair trial under article 31, paragraph 1 and article 33, paragraph 3 of the Constitution and the right to appeal under article 43 of the Constitution.

In criminal trials, there is an explicit rule according to which foreign-language witnesses (§ 116 of the Code of Criminal Procedure, StPO) or accused persons (§ 145 paragraph 3 StPO) must be given an interpreter and essential documents must be translated (§ 63 StPO).

For the same reasons, the same applies analogously to civil proceedings.

Moreover, both in civil (§§ 63 et seq. of the Code of Civil Procedure, ZPO) and in criminal proceedings (§ 26 paragraph 2 StPO), the possibility exists to apply for legal aid (legal representation free of charge): Legal aid includes provisional waiver of the costs of translation; if the assistance of an interpreter is necessary and the accused person does not have the requisite financial means, an application for assistance by an interpreter is addressed to the court. In civil proceedings, these costs are borne by the losing party; in criminal proceedings, they are borne by the convicted person, unless the costs endanger the minimum livelihood of the person required to pay (§ 308 paragraph 1 StPO, § 71 paragraph 1 ZPO).

The counsel or the affected person is in principle responsible himself for translations outside the court – especially between the counsel and the defendant – but costs for such translations may be borne by legal aid, if the counsel applies for such aid from the court in advance or if he advances the costs to his client.

22. It is reported that women of immigrant origin, particularly single mothers, can face difficulties in finding rental accommodation, and that they are often disadvantaged on the labour market where they are confined to low paid or black market jobs in which they are frequently exploited. Please provide detailed information on the measures taken to remedy this situation.

Single parents – from Switzerland, the EEA/EU, and also from third States – have good access to housing on the private housing market. It is important for landlords that a regular income is available and that the renter meets all payment obligations, that he or she does not adversely affect other renters, and that he or she treats the rental object appropriately. If income is insufficient, the Office of Social Affairs may provide the landlord with a rent guarantee, which very much facilitates the receipt of housing.

Single parents are not legally disadvantaged on the labor market. However, it is often difficult for single parents to work shift, given the lacking child care options in such cases. Options are available for the care of children during the workday (day nurseries or day mothers). In the case of persons with a low income, the costs for childcare are borne by the Office of Social Affairs. For some years, families with low incomes have also been eligible for State subsidies of housing costs (rental subsidies). This is a great financial relief for such families. The claim to rental subsidies exists for all families who have resided in Liechtenstein for at least one year.

As mentioned above, there is no secure data on how many migrants are actually affected by the problems described. Not least of all, this has to do with the difficulties in gathering relevant data. Other than the support measures described above for persons with low incomes (rent guarantee, assumption of the costs for care of children outside the home, rental subsidies), no additional measures have been taken specifically for single migrant parents.

Article 6

23. Please provide information on the availability of remedies for victims of racial discrimination in the State party, including civil remedies.

Victims of racially motivated attacks are given the possibility under criminal law to file criminal charges against the perpetrator and to join the proceedings with their claim as a private participant under civil law (see below).

Moreover, the possibility exists under criminal law to question the victim in a sensitive manner, by which a direct confrontation with the perpetrator is avoided (§ 115a StPO). In addition, a witness is always at liberty to consult a trusted person for questioning before the investigating judge. The protection of victims will be further strengthened in the future with the planned introduction of a Victims Protection Act. The Victims Assistance Act is based to a large extent on the Swiss model and was considered in Parliament for the first time in June 2006; parliamentary consideration is expected to be concluded by the second half of 2007.

Under civil law, victims especially of gender-specific discrimination may assert claims to cease and desist, claims to remove the discrimination, salary claims, compensation claims, and claims for satisfaction (article 5 of the Gender Equality Act); this can be of particular relevance in respect of employment contract law (§ 1173a article 8a of the General Civil Code).

In general, however, a claim to the protection of personality (articles 39 et seq. of the Law on Persons and Companies; PGR) derives from the basic right to personal liberty: In this way, anyone who believes his personal circumstances (personality goods) have been unlawfully violated or endangered, such as with respect to physical and mental integrity, honor, domestic peace, liberty, name, correspondence, business relations, and other similar circumstances, and in general with respect to the right to respect for and assertion of personality, to the extent that personality goods such as copyright and patents and the like are not already governed by special laws, and to the extent that the protection thereof is compatible with the protection of the interests of others, such a person may demand that the circumstances be assessed, that the disruption be removed (or desisted from), that the prior state of affairs be restored by abrogation and the like, and that further disruptions be refrained from, without having to prove the fault of the other person. To prevent future disruptions, the judge may, if an injury has arisen, also impose an appropriate guarantee in the judgment or other equivalent deed, such as an injunction, in addition to the means permissible under the law of forcible execution. Refraining from an act may also be ordered if the act to be prohibited simultaneously constitutes a punishable offense.

With respect to possible satisfaction for an intangible injury suffered due to discriminatory acts, no jurisprudence exists so far, so that it cannot be conclusively determined in which cases such satisfaction may be granted. In principle, however, restitution of intangible injuries is possible in the framework of the general right to restitution (§§ 1295 et seq. of the General Civil Code; ABGB), even if its assessment naturally entails certain difficulties.

The injured party may also join criminal proceedings as a private participant with his civil claim (adhesion proceedings); in comparison with ordinary civil proceedings, this constitutes a simplified option to assert claims, since such claims must only be attested, and the court is required to instruct the injured party and to establish the material truth on the basis of the legality principle/the principle of ex officio investigation (if, however, this should exceed the scope of the criminal trial, the injured party shall be referred to the option of civil proceedings).

24. Does the State party provide legal aid to victims of racial discrimination?

Both in civil (§§ 63 et seq. ZPO) and in criminal proceedings (§ 26 paragraph 2 StPO), the possibility exists to apply for legal aid (legal representation free of charge), which also encompasses relief in whole or in part from the obligation to pay other procedural costs (court fees, bail, expert fees, interpreter fees, etc.).

In this way, injured parties/victims may be granted legal counsel free of charge to assert their claims under civil law, to the extent that they are unable to bear the corresponding costs themselves. However, legal aid is only granted if the assistance of counsel is necessary for the purpose of legal proceedings and if the legal proceedings do not appear spurious or futile, and the costs of the proceedings cannot be paid without adversely affecting the party's necessary livelihood. These preconditions are generally interpreted generously in favor of the applicant, especially since the court only conducts a very rough material review in advance of the proceedings as part of the admissibility review, and therefore must quickly assume the necessity of legal representation. Legal aid is therefore a means that is often used in Liechtenstein.

This possibility primarily exists in civil proceedings, but if needed due to the complexity of the civil claim to be asserted (see above) is also granted to private participants in the context of criminal proceedings.

The costs of the civil proceedings must then only be borne to the extent that the injured party/victim does not succeed in his claim or loses the case, and even then only if the financial situation of the victim/injured party changes in the next 3 years in such a way that he is able to assume the costs; in adhesion proceedings, private participants are generally not liable for costs, unless they continue the proceedings independently after the Office of the Public Prosecutor has suspended the proceedings (§§ 306, 307 StPO).

According to the jurisprudence of the Constitutional Court, legal aid based on articles 1 and 6 of the ECHR must also be granted to foreign citizens; a previously applicable reciprocity clause in civil proceedings was found unconstitutional by the Constitutional Court and struck from the relevant law without replacement; however, the courts had already in the past interpreted that clause very broadly in favor of the applicant.

25. Has the Office for the Equality of Opportunities processed complaints regarding racial discrimination? If so, please provide concrete examples and information on the outcome of the complaints.

So far, no complaints have been lodged with the Office of Equal Opportunity with respect to racial discrimination. However, a group of young people between the ages of 17 and 25 (Liechtenstein citizens and foreigners) who felt threatened by representatives of the right-wing extremist scene approached the Office in November 2005. The young people wanted to bring the existence of a right-wing extremist scene in Liechtenstein to the attention of the public and send a signal against violence and racism. With the help of the Office of Equal Opportunity, they launched a petition to criminalize the carrying of Nazi emblems and racially discriminating symbols. The text of the petition was:

“The undersigned hereby petition the Parliament of the Principality of Liechtenstein to amend the anti-racism provision in the Liechtenstein Criminal Code (§ 283 StGB) so that the carrying of Nazi emblems and racially discriminating symbols can be prosecuted under criminal law. [...] The carrying of Nazi emblems and racially discriminating symbols facilitates communication among like-minded persons and also facilitates the entry of new members. The symbols also represent an inhuman ideology. Since the carrying of Nazi emblems and racially discriminating symbols has so far not been prohibited in Liechtenstein, the police do not have the legal basis to counter right-wing radical tendencies. We therefore demand that the propagation of inhuman ideologies, in whatever form, be prohibited. A legal basis should be established to act against right-wing radicalism and right-wing radicals.”

From May to October 2006, the young people collected over 1,000 signatures, which they presented to the President of Parliament together with the petition at the end of October. The submitted signature lists were considered by Parliament as the second item in its meeting of November 2006. The Members of Parliament viewed the proposal of the Colorida Group very positively, so that the petition was adopted unanimously and forwarded to the Government of the Principality with the mandate to develop a draft law. The Colorida Group has accordingly already been invited to talks with the Minister of Justice and the Minister of Home Affairs, providing the opportunity for a substantive exchange. The talks were very positive, and the Government promised to clarify further facts concerning the necessity of amending the anti-racism penal provision.

On 17 March 2007, the Group is hosting an anti-racism forum with speakers and discussions. It has also been present on the Internet for some time at www.colorida.li. The Group is financially supported by the EU youth promotion program “Tolerance and Anti-Racism” and is accompanied by the person responsible for the program in Liechtenstein (“aha” – Tips and Information for Young People).

Article 7

26. *In its replies to the list of issues of the Committee on Economic, Social and Cultural Rights (para. 122), the State party mentions that the Office of Equal Opportunity plans to create a platform for foreigners’ associations “for purposes of in-depth exchange and treatment of topics”. Please provide updated information on this initiative.*

On 6 November 2006, the Office of Equal Opportunity initiated the establishment of a Task Force on Integration. This Task Force includes representatives of the foreigners' association and the associations and working groups that deal with the topic of integration. It was decided at the meeting to participate with a separate project in the European Year of Equal Opportunity in 2007. The project is a press campaign entitled "At Home in Liechtenstein", which profiles foreigners and natives and thereby aims to contribute to better mutual understanding. The press campaign was prepared by a team of editors consisting of foreigners, under the supervision of the Office, and will be launched in March 2007. In March, the Task Force on Integration will plan further steps.

27. Please provide information on specific training programmes and courses, if any, provided to members of the judiciary, law enforcement officials, teachers, social workers and other public officials on the provisions of the Convention and their application.

With respect to the training and sensitization of police officers on the topic of racism and xenophobia, basic police training includes a total of 24 lessons/hours on human rights/racism. The topic of how to deal with foreigners and members of other cultures is also discussed in the Community Policing course, which is taught in 28 lessons. In the autumn of 2006, the National Police also conducted an internal seminar on hate crime (see answer to question 10).

In 2005 and 2006, the training of the public administration included seminars on the topic of intercultural communication, with the goal of using simple examples and applications to ascertain the values and ideas of other cultures and to cultivate better, conflict-free, and fair interactions with persons of different backgrounds.

For several years, the training of the public administration has also offered courses on conflict resolution and conflict management for apprentices, apprentice trainers, and managers. These courses include questions of conflict resolution against the background of cultural differences.

In 2005 and 2006, the Government granted financial support to the pilot project "Mother-Child German" of the Association for Intercultural Education. The goal of the project was to improve the integration of foreign-language women and children through German-language courses and to improve the self-confidence of migrant women.

28. Please indicate whether any measures have been taken to disseminate the Convention among the general population.

The text of the Convention, the country reports under article 9 of the Convention, and the recommendations of the Committee have been published in German and English on the official website of Liechtenstein, www.liechtenstein.li, for years. On the International Day Against Racism on 21 March, annual press releases in the two Liechtenstein newspapers draw attention to the Convention and its objectives.

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