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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR
THE PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF LIECHTENSTEIN
ON THE THIRD OPINION OF THE ADVISORY COMMITTEE ON THE
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES
BY LIECHTENSTEIN**

(received on 31 March 2010)



Advisory Committee on the Framework Convention
for the Protection of National Minorities

Third Opinion on Liechtenstein, adopted on 26 June 2009

Written comments by the Liechtenstein authorities

The Liechtenstein authorities welcome the opportunity to continue the dialogue with the Advisory Committee on the implementation of the Framework Convention, taking into account the limited potential for the application of the Framework Convention in Liechtenstein as acknowledged by the Advisory Committee.

Liechtenstein thanks the Advisory Committee for the thorough and detailed analysis of the situation on the ground and agrees in principle with its findings as documented in the Third Opinion of 26 June 2009. However, with regard to some paragraphs Liechtenstein deems it necessary to provide new and additional information.

The Liechtenstein authorities wish to reiterate their full commitment to the implementation of all legal obligations arising from international human rights treaties to which Liechtenstein is a State party and that they also continue to support the aims of the Framework Convention. In this sense, they are looking forward to a further constructive dialogue with the Advisory Committee.

Comment on Paragraph 15 of the Third Opinion:

Nevertheless, difficulties are still reported for persons of different ethnic, linguistic or religious background in a number of sectors, including employment, housing and education. The language barrier still causes problems in terms of effective participation in these sectors of public life. In addition, hostile attitudes towards such persons continue to be reported, although the general climate is one of tolerance and mutual understanding.

The new Law on Foreigners (*Ausländergesetz*, AuG) demands and promotes the integration of foreigners in society. According to article 6, paragraph 4 AuG, foreigners are required to familiarize themselves with the social circumstances and living conditions in Liechtenstein and in particular to learn oral and written German.

Liechtenstein promotes German-language courses offered by recognized language schools, providing preparation at the A1, A2 or B1 level of the European Language Portfolio. In addition to various language schools in the region, the Association for

Intercultural Education offers German-language courses tailored to immigrants with little educational background, in order to achieve the goal of integration set out in the AuG.

The Immigration and Passport Office contributes CHF 200 for students to attend the courses; up to four courses can be supported financially at each level. In 2008, a total of 380 German courses were subsidized. Literacy courses are also promoted.

Research conducted by the Liechtenstein Institute shows that the Liechtenstein population is more open and tolerant than xenophobic. Despite the comparatively high proportion of foreigners (34%), positive associations predominate in the population. Immigrants are often even seen as an opportunity for opening up to new ideas and cultures. This certainly also has to do with the fact that foreigners have made major contributions to the development of Liechtenstein's economy and prosperity, that the unemployment rate is rather low at about 3%, and that the crime rate is also not perceived as particularly threatening. But also the human component likely plays an important role. Liechtenstein has no socio-spatial segregation; rather, the population groups mix easily.

Comment on Paragraph 16 of the Third Opinion:

More generally, the national plan against racism remains to be fully implemented and requires more resolute efforts, in particular in the context of the worrying trends noted in terms of right-wing extremism.

In June 2007, the mandate for implementing the Action Plan against Racism was transferred from a temporary working group (Working Group against Racism, Anti-Semitism and Xenophobia) to a permanent authority, the Equal Opportunity Office. In July of the same year, the Government also mandated the Violence Protection Commission to initiate a socioscientific study on the motives of right-wing extremist and to use the results of the study as a basis for specific countermeasures. The results of the study were brought to the attention of the Government in November 2009. The Violence Protection Commission is currently preparing a specific catalogue of measures on the basis of the study's recommendations.

Comment on Paragraph 22 of the Third Opinion:

The Advisory Committee takes note of the authorities' commitment to foster integration and acknowledges the importance of language as a tool for integration. It notes that specific financial support has been allocated for the measures envisaged as part of this policy, in particular those aiming to foster the German language teaching. It would, however, like to stress that integration involves both the majority and the minority communities and should not rely disproportionately on the efforts to be made by the immigrants. It welcomes the fact that the above-mentioned integration policy also includes measures intended to increase openness and improve attitudes towards new groups within the majority population and strongly encourages the authorities to be pro-active in this regard. In particular, the Advisory Committee considers it essential that the authorities put emphasis, in their action, on combating and sanctioning racism and intolerance and on awareness-raising measures. The Advisory Committee would also like to stress that respect

and support to the preservation of the identity and culture of persons of different ethnic origin are important pre-conditions to their successful integration.

Both the police and the Government take an offensive approach against ideologically motivated violence. In the reporting period, the Government denounced racially motivated incidents at a public event. The right-wing extremist hooligans were subsequently convicted under criminal law.

The principle that successful integration requires reciprocity is enshrined at several levels: Article 5, paragraph 1 of the Movement of Persons Act (*Personenfreizügigkeitsgesetz, PFZG*) articulates the goal of integration as "the coexistence of the Liechtenstein and foreign population on the basis of shared basic values and the rule of law, which is characterized by mutual respect and tolerance." The integration policy paper adopted by the Government in February 2007 is based on the principle of "demanding and promoting." The paper states: "The migration and integration process affects both the migrating population and the receiving society. In addition to migrants, the native population must also be addressed as a target group." Article 6 of the Law on Foreigners of September 2008 stipulates: "Integration requires both the will and effort of foreigners to fit into society as well as the openness of the Liechtenstein population."

Comment on Paragraph 24 of the Third Opinion:

The Advisory Committee notes that, under Article 31 of the Constitution of Liechtenstein, the principle of equality before the law only applies to citizens and that the protection of the rights of foreigners is only ensured through international treaties and on the basis of reciprocity. The Advisory Committee is concerned that this situation does not provide a sufficient legal basis for the enjoyment of the rights of immigrants living in Liechtenstein, even though these persons represent a substantial part of the total population. It calls on the authorities to examine this situation and to identify the most appropriate ways to remedy it. In this context, it strongly welcomes the efforts made by the authorities of Liechtenstein in recent years to collect data with respect to discrimination in various areas, and to identify areas where the situation of persons belonging to vulnerable groups requires more resolute measures of support from the State.

The equal protection clause in article 31 of the Liechtenstein Constitution was introduced in 1921. 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 core UN human rights instruments, such as ICESCR, ICCPR, ICERD, CEDAW and CRC. Due to Liechtenstein's monistic legal system, international treaties ratified by Liechtenstein, as a general rule, are directly applicable. Implementing legislation is only foreseen for those obligations deriving from international treaties that have to be specified by a national law.

The international human rights instruments mentioned above 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 the individual complaints

procedures under ICERD, CEDAW and ICCPR, in addition to the one under the ECHR. In this regard, the Liechtenstein Constitutional Court has been given the competence to act as the domestic court to hear such complaints at the national level and to decide on any need for legislative change.

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, putting the many different human rights guarantees contained therein at the same level as other human rights-related provisions in the Constitution. In addition, the Constitutional Court has been given the above-mentioned competence for the individual complaint procedures. This competence corresponds to the competence of the Constitutional Court in respect of other human rights-related 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 for foreigners under article 31 of the Constitution has therefore also been continuously expanded, not the least with regard to the various grounds of discrimination that are prohibited under those treaties. So far no individual complaint relating to an alleged discriminatory treatment has been lodged with the Constitutional Court under the relevant international treaties.

In 2008, a project group was mandated to evaluate various possibilities for improving data collection. A report on facts and figures relating to human rights in Liechtenstein is now under preparation. This report will consolidate the existing data material, attaching great importance to disaggregated statistics. This status report will in future be updated and published annually. The first publication is scheduled for December 2010.

Comment on Paragraph 30 of the Third Opinion:

Notwithstanding these positive steps, the Advisory Committee however regrets to note that difficulties are still reported with regard to the situation of immigrants and their integration in society. Different sources report that persons of different ethnic origin, in particular asylum-seekers and women of immigrant background, continue to face difficulties in their efforts to rent accommodation or to find employment. With regard to employment, the Advisory Committee notes that the scope of the prohibition of discrimination on the basis of race, colour, descent, nationality or ethnic origin in the Employment Contracts Act is limited to the contracts' termination and that it does not cover aspects such as recruitment, remuneration and promotion.

According to article 31 of the Law on the Acceptance of Asylum-Seekers and Persons in Need of Protection (Refugee Act), the State establishes and maintains an acceptance center in which asylum-seekers are in principle housed until the final decision on their asylum application. The Government has delegated care for asylum-seekers to the Liechtenstein Refugee Assistance Service, which is responsible for all asylum-seekers and for the care of persons granted temporary protection. Recognized refugees receive a permit to stay in Liechtenstein and are taken care of where necessary by the Office of Social Affairs. No cases are known of a person not finding housing.

Several arrangements exist in Liechtenstein to ensure that everyone has housing. The purchase of private housing is subsidized under the provisions of the Housing Construction Promotion Act. Families with children and single parents whose household income is below a certain threshold are supported in accordance with the Rental Subsidy Act (LGBl. 2000 No. 202). Everyone, irrespective of citizenship, has a right to rental subsidies if they have been living in Liechtenstein for at least a year. In hardship cases, social assistance provides support and finances housing costs.

There is no empirical evidence showing that immigrants face particular difficulties in finding employment. The Equal Opportunity Act has created a legal basis for countering discrimination against women. Legal rules are also available to foreigners discriminated against with respect to work. In the public sphere, § 283 of the Criminal Code (StGB) stipulates that anyone is subject to punishment who denies a service that is intended for the general public to a person or group of persons on the basis of race, ethnicity or religion. Services intended for the general public include every publicly offered service that is not exclusively and recognizably designated for a specific person or group of persons. Such services include not only services relating to the hospitality industry, recreation and entertainment (cinemas, theaters, etc.), transport, education and other public offerings of goods and services, but also services relating to work and housing. In the private sphere, the protection of personality (articles 38 ff. of the Law on Persons and Companies, *Personen- und Gesellschaftsrecht*, PGR) applies in particular, which covers the moral value of human beings, but also their professional and social standing. As a rule, discriminatory denial of employment constitutes a violation of personality; likewise unequal pay on the basis of ethnicity, race, religion and national or regional origin constitutes such a violation of personality. In employment contract law, the emphasis is generally on freedom of contract. Labor law, however, sets out various protection duties for the benefit of employees. § 1173 article 27 of the General Civil Code (*Allgemeines Bürgerliches Gesetzbuch*, ABGB), for instance, not only demands that the employer refrain from discrimination, but also that the employer actively protect employees from racist attacks at work. Discrimination in career advancement also violates the principle of equal treatment under labor law set out in the PGR.

Comment on Paragraph 15 of the Third Opinion:

It also appears that immigrant children, due inter alia to language barriers, face difficulties in adequately integrating education. According to different sources, these pupils have lower school performance, are likely to attend lower-standard secondary schools and are under-represented in higher levels of secondary education. To improve access and effective integration of these children in school, additional support measures are needed, such as intensive language classes, extra tuition and information and awareness-raising measures for families. In addition, the initiatives taken to improve the education system's ability to address the specific needs of these children should be pursued and developed further.

Both children of immigrants and children and young people who have already acquired Liechtenstein citizenship have the right to special scholastic support measures according to their individual needs. These measures are set out in the Ordinance on Special Scholastic Measures, Pedagogical-Therapeutic Measures, Special Schooling and the School

Psychology Service (Liechtenstein Law Gazette LGBl. 2001 No. 197) and in the associated Framework Conditions for Carrying Out Special Scholastic Measures. As noted in the report on Scholastic Measures for Children of Immigrants in Liechtenstein of July 2004, pupils are supported by way of specific measures such as intensive language courses and a tailored learning program (New Learning Project) as well as general support measures such as special school entry and promotion as well as pedagogical-therapeutic offerings. Moreover, projects with intercultural objectives are often organized at the class and school level.

Comment on Paragraph 33 of the Third Opinion:

The Advisory Committee has however been informed that instances of xenophobia and intolerance continue to be reported against persons of different ethnic origin and religion, notably against Muslim and persons of Turkish origin. Moreover, a worrying increase in xenophobic and other extremist tendencies has been noted in recent years among youth and cases of violence due to such groups have been reported, including in schools. It commends the authorities' commitment to ensure constant monitoring of the situation as well as the efforts made to develop a comprehensive strategy to prevent, measure and combat the expansion of such manifestations, in particular among the youth. The Advisory Committee welcomes these efforts as it considers that such trends are a source of deep concern and require immediate action. More generally, it calls on the authorities to take more resolute steps to improve attitudes in society towards immigrants and to ensure full respect for their rights.

The qualitative study on right-wing extremism in Liechtenstein of 10 June 2009, commissioned by the Violence Protection Commission, testifies that the police and the authorities as a rule take rapid and consistent measures against such extremism. The study also noted that right-wing extremism surfaces on a far less massive and visible scale than just a few years ago, despite sporadic incidents of manifest use of violence. The report also states that youth work is attentively following the phenomenon of right-wing extremism. Further measures are planned in connection with the work of the Violence Protection Commission mentioned in paragraph 16 of the Third Opinion. A specific catalogue of measures will help improve the coherence of the policy to combat violence in Liechtenstein and thus to better confront the problem of violence and its diverse manifestations.

Comment on Paragraph 34 of the Third Opinion:

The Advisory Committee encourages the authorities to adopt a more comprehensive policy to ensure the implementation of the principles of equality and non-discrimination in respect of all persons living on the territory of Liechtenstein, including through the adoption of a more comprehensive anti-discrimination legislation. The initiatives taken to promote equal opportunities in various areas of life should be pursued and developed further.

The Equal Opportunity Office (formerly the Gender Equality Office) was granted its current broad mandate against the backdrop of promoting equal opportunity. In addition to the

Equal Opportunity Commission, an additional Commission for Integration Matters was appointed in 2009 (see comments on paragraph 35).

Comment on Paragraph 35 of the Third Opinion:

More resolute measures should be taken to facilitate the effective integration of persons of a different ethnic origin, while supporting efforts to preserve their identity.

In 2009, the Government decided to establish a Commission on Integration Matters chaired by the Integration Commissioner working within the Immigration and Passport Office since 2009 and with the participation of affected foreigners' organizations, the Conference of Mayors, the Chamber of Commerce and Industry, and the umbrella organization of the parents' associations. The goals of this commission include the better integration of foreigners. The Ministry of Home Affairs is preparing the first draft of an integration concept for Liechtenstein. The Commission for Integration Matters has now been mandated to specify this concept in more detail. A specific plan of measures will be presented by the middle of 2010.

Comment on Paragraph 36 of the Third Opinion:

Further efforts should be made to ensure full implementation of the national action plan against racism. The authorities should continue to monitor closely manifestations of racism and xenophobia and take adequately measures to combat and sanction them. Particular attention should be paid to recent worrying tendencies in this respect

See the comments on paragraphs 16 and 33.

Vaduz, 30 March 2010

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