

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION 70TH SESSION LIECHTENSTEIN, 2ND AND 3RD REPORT

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Background

Liechtenstein submitted its initial report to the Committee on the Elimination of All Forms of Racial Discrimination (the Committee) in 2001, one year after Liechtenstein's ratification of the *International Convention on the Elimination of all Forms of Racial Discrimination (the Convention)*.¹ In its concluding observations to the initial report, the Committee on the Elimination of Racial Discrimination (the Committee) noted several issues that need further consideration, including right-wing groups that may advocate racial discrimination and xenophobia, the integration process of foreigners into society, the right to adequate housing, access to social security and health care by non-nationals, and awareness-raising measures.² The absence of statistical data on the number of children of refugees and asylum-seekers attending public school and intensive German language courses also taken into Committee's consideration. Further, the Committee also recommended Liechtenstein to consider the Durban Declaration and Programme of Action when implementing the Convention at the national level, in particular in respect of Articles 2 to 7 of the Convention.

Information submitted to the Committee

¹ CERD/C/394/Add.1, 1 March 2001, available at <http://www.ohchr.org/english/bodies/cerd/cerds70.htm>.

² CERD/C/60/CO/7, 21 May 2002.

On 27-28 February 2007, the Committee welcomed the submission of 2nd and 3rd reports on time and the responses included in the reports to previous comments and recommendations from the Committee.³ The report is divided into two headings: general information, and measures to implement Committee's comments and recommendations from the previous report. The Committee expressed its satisfaction at providing a special heading on implementation.

The Committee did not receive any new reports from NGOs. However, there were two NGO reports from 'Integration'⁴ and from the Association for Intercultural Education (*Verein für interkulturelle Bildung, ViB*) which addressed the content of Liechtenstein's 2nd and 3rd reports to CERD and had been submitted to the national Working Group against Racism, Anti-Semitism, and Xenophobia in Liechtenstein.⁵ Both NGOs had commented positively on the State's report. Integration noted that the report corresponded with the facts, in particular in relation to the issue of integration of foreigners. The Association for Intercultural Education (*Verein für interkulturelle Bildung, ViB*) focused on the question of illiteracy problem, and the case of a Turkish family relating to housing subsidies. ViB also noted that the problem of "functional illiteracy"⁶ was increasing. The absence of data concerning immigrants who face daily life as illiterates in Liechtenstein was also highlighted. In the context of housing, ViB demanded that landlords draft uniform rules for residents in simple German so that it would be more understandable for all, including foreigners.⁷

The Committee's Country Rapporteur, Mr. Alexei S. Avtonomov, submitted a list of issues to the State Party.⁸ This focused on four main issues: the implementation of the *Convention* at the national level; the integration process of foreigners into society and their legal status; xenophobic and right-wing tendencies, in particular among youths and young adults; and statistical data on non-citizens in various areas in Liechtenstein. The Rapporteur also raised issues on the integration of Muslims into society, the status of asylum seekers and refugees, the situation of women of immigrant origin, particularly single mothers, and remedies for victims of racial discrimination.

Themes and issues

The Committee expressed its satisfaction that the delegation was well represented. There were seven people presented before the Committee from various State institutions that deal with the issue of racial discrimination.⁹ Mr. Patrick Ritter (Deputy Permanent Representative, Liechtenstein Mission to the UN in New York) was the head of the delegation, replacing Mr. Norbert Frick (Ambassador, Permanent Representative, Liechtenstein Mission to the UN in Geneva). The engagement of the Head of the Criminal Police, Mr. Jules Hoch, drew the Committee's attention because it is uncommon to have a police officer before the Committee. Further, the Committee expressed its appreciation for an open and frank dialogue with the delegation.

³ CERD/C/LIE/3, 20 December 2005.

⁴ NGO Group "Integration" consists of three NGOs, namely Information and Contact Center for Women Parent-Child Forum, Justitia et Pax, and Association for Intercultural Education (ViB).

⁵ NGOs comments are available at http://www.liechtenstein.li/en/pdf-fl-staat-aussenpolitik-laenderbericht_2+3_stell_integr-eng.pdf and http://www.liechtenstein.li/en/pdf-fl-staat-aussenpolitik-laenderbericht_2+3_stellung_vib-eng.pdf.

⁶ Functional illiteracy indicates people who are unable to read texts and understand the texts in the context.

⁷ Political system, social insurances, history, separation of powers and the rule of law, politics, rights and duties of inhabitants, security, protection and order, public health, church and State, school and apprenticeships, and education and labour.

⁸ Written replies to the list of issues are available at http://www.ohchr.org/english/bodies/cerd/docs/Answers_Lie.pdf

⁹ Mr. Jules Hoch (Head of the Criminal Investigation Department, National Police); Mrs. Veronika Marxer (Office for Equal Rights); Mr. Michael Jehle (Judge at the Liechtenstein Court of Justice); Mrs. Alicia Langle (Diplomat Officer, Office for Foreign Affairs); Ms. Regine Walzl (Immigration and Passport Office); and Ms. Isabel Frommelt (Second Secretary, Liechtenstein Mission to the UN in Geneva).

Mr. Ritter provided introductory statements on Liechtenstein's recognition on the importance of the international and regional human rights agreements and its commitments to strengthening the human rights protection system within the framework of the United Nations, including the treaty bodies. He noted that the present dialogue was highly valuable because it was taking place just two weeks after the official launch of the 'European Year of Equal Opportunities for All' in Liechtenstein. He then turned to the list of questions given by the Country Rapporteur. The delegation decided to address the main questions in four thematic clusters: legal aspects (presented by Mr. Michael Jehle (Judge at the Liechtenstein Court of Justice)); equal opportunity and integration of foreigners (presented by Mrs. Veronika Marxer (Office for Equal Rights)); combating right-wing extremism (presented by Mr. Jules Hoch (Head of the Criminal Investigation Department, National Police)); and statistics and documentation (presented by Mrs. Alicia Langle (Diplomat Officer, Office for Foreign Affairs)).¹⁰

The Country Rapporteur noted that the report gave detailed replies on measures taken to implement comments and recommendations from the previous report, including the ratification on the amendment of Article 8 of the *Convention* and the declaration under Article 14. Although the Committee does not specifically deal with religious discrimination, additional information on Muslim communities was also welcomed. By referring to General Recommendation No. 27 on Discrimination against Roma, the Country Rapporteur raised a new question concerning whether there are Roma people who permanently reside in Liechtenstein.

Implementation of the *Convention*

The Committee noted the positive steps taken by Liechtenstein due to the ratification on the amendment of Article 8 and the declaration under Article 14 of the *Convention*.¹¹ Up to this date, there are only 43 states that have ratified the amendment to Article 8 and approximately 51 states that have made a declaration under Article 14 of the *Convention*.

In addition, Mr. Kjaerum inquired whether Liechtenstein intended to ratify Protocol 12 of the *European Convention on Human Rights*, which contains a general prohibition of discrimination.¹² Mr. Ritter replied that Liechtenstein was among the first countries to sign the Protocol. The signing of this Protocol was considered a further expression of strengthening human rights protection. Further, the Protocol is in accordance with Article 14 of the *Convention*. As an additional value, he noted that not many of the European countries have signed this Protocol.

Domestic legislation against racism

Mr. Michael Jehle linked the implementation of the *Convention* with the Criminal Code and the *Constitutional Court Act*. He explained that the definition of racial discrimination in Article 1 of the *Convention* is provided under Article 283 of the Criminal Code. Mr. Ritter added that the Criminal Code also covers racial hatred, such as hate speech and hate signs. Mr. Amir suggested that the Durban recommendations should be participatory elements in terms of criminalising hatred.¹³

The Criminal Code also provides for the prosecution of members of an association that engages in promoting or inciting racial discrimination. In October 2006, the Parliament of Liechtenstein received a petition from young people demanding that the carrying of Nazi emblems and racially discriminating symbols be criminalised. The Ministry of Justice is currently conducting legal research in respect of the petition. Further, he stated that there were only five cases that went to court under the Article 283 of the Criminal Code. One of

¹⁰ Introductory statement of Liechtenstein's delegation is available at http://www.ohchr.org/english/bodies/cerd/docs/Introductory_Statement_liechtenstein.pdf.

¹¹ Mr. Alexei S. Avtonomov, Mr. Morten Kjaerum, and Mr. Regis de Gouttes (as an Independent Expert).

¹² In its Second Report on Liechtenstein, adopted on 28 June 2002, The European Commission against Racism and Intolerance (ECRI) also urged the Government of Liechtenstein to ratify Protocol 12 of the European Convention on Human Rights. This document is available at <http://www.liechtenstein.li/en/pdf-fl-staat-aussenpolitik-menschenrechte-ecri-2003-eng.pdf>.

¹³ From 31 August to 7 September 2001, a world conference against racism, racial discrimination, xenophobia and related intolerance was held in Durban, South Africa.

the cases dealt with religious fanaticism. The court that examined the cases came into a conclusion with four resulted in a conviction, one of the perpetrators was acquitted, and another case was suspended.

Integration of foreigners

Office of Equal Opportunity

The Office of Equal Opportunity -- an expansion of the already existing body, the Office of Gender Equality - was established in February 2007. This was accompanied by the creation of the Equal Opportunity Commission. Both the Office of Equal Opportunity and the Equal Opportunity Commission were given mandates to observe developments in equal opportunities, to monitor the measures taken by the Government, and to deal with public outreach relating to overarching questions of social significance. Both bodies are in charge of specifying and determining strategies, developing comprehensive common solutions, drafting recommendations and proposals for the attention of the Government, and advising the Government in the area of equal opportunity. However, the coordination function was only given to the Commission. While the Office of Equal Opportunity primarily deals with issues in the area of gender quality, disability, sexual discrimination and sexual orientation, issues relating to immigration and the integration of foreigners also fall within its mandate.

Mrs. Veronika Marxer provided data on immigrants. She stated that as of June 2006, 11,904 foreigners from 90 countries live in Liechtenstein. This constitutes 34% of the total population of Liechtenstein. About 57% come from Switzerland, Austria, and Germany, the rest predominantly from Italy, Turkey, Portugal, Serbia, Montenegro and Spain.¹⁴ She explained that currently the Government is evaluating the 'integration concept', which was based on the revised Ordinance on the Movement of Persons of November 2004.

Mr. Kjaerum noted that the establishment of the Office of Equal Opportunity was in accordance with the UN Paris Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights (the Paris Principle). Nevertheless, he asked whether there was any intention to set up an independent National Human Rights Commission in Liechtenstein. Mr. Ritter stressed that currently the Government is preparing a proposal in accordance with the Paris Principles for Parliament. The Government proposes having an Ombudsman Office for Children and Young People. Therefore, he stressed, the Government did not have any intention of creating a more general Human Rights Institution.

Concept of integration

A question on the 'integration concept' was raised by Mr. Rodriguez. This question was also present in the list of issues prepared by the Country Rapporteur.¹⁵ The delegation then linked the question to the establishment of the Equal Opportunity Commission. The integration concept was the first agenda of the Commission. An integration policy paper was drafted and presented to the Government in February 2006. In February 2007, a revised policy paper was brought for the second time to the attention of the Government. The policy paper consisted of two documents: a position paper and a concept of action. In short, the concept of integration provided the same equal opportunity for all people living in Liechtenstein. This equal opportunity covered all aspects of society on the basis of common fundamental values, mutual respect and the rule of law. The comprehensive participation in economic, social, and cultural life shall also be made possible.

Citizenship

In his preliminary observation, the Country Rapporteur put forward the remarkable fact that in Liechtenstein foreigners can be employed in the civil service as judges. At the same time, however, he added that discrimination can arise with without intention, even between people who share a close language and culture.

¹⁴ Most of the foreigners came to work in Liechtenstein and the rest came with the purpose of family reunification.

¹⁵ See Liechtenstein's written replies to question no. 7.

This was evident in an example quoted from an interview where Germans said that it was difficult to be integrated in Liechtenstein because of the different dialect. They felt like the outsiders.

In terms of naturalisation, Mr. Kjaerum questioned the follow-up measures on the recommendations of the European Commission against Racism and Intolerance (ECRI) in 2002, particularly the efforts to facilitate naturalisation for non-citizens. He then referred to the Committee's General Recommendation No. 30 on non-citizens in 2004, particularly Chapter IV which addresses the issue of access to citizenship.¹⁶

The ECRI report noted that there are three ways to obtain citizenship in Liechtenstein. The first way is through marriage to a person who is a citizen of Liechtenstein. Second, according to the *Act on Facilitated Naturalisation*, a person must have lived as a permanent resident in Liechtenstein for thirty years. Third, citizenship can be requested through a shorter discretionary procedure after five years of permanent residence. However, the last way involves a system of voting by the local community in which the applicant is directly questioned. The ECRI expressed its concern over the two last methods. Similar to the ECRI, Mr. Yutzis stated that there is ambiguity in the process due to the criteria not being clear enough. He noted that personality issues can affect the outcome.

The last question on naturalisation was raised by Mr. Kjaerum. By referring to Switzerland's practice which allows citizens to call a referendum against municipal authorities' decisions, he noted that this practice is also followed by Liechtenstein. He questioned the mechanism to monitor the carrying out of this referendum so that no discrimination happens between different nationalities. Despite having the same practice as Switzerland, Mrs. Marxer acknowledged that up to this date Liechtenstein does not have a court decision stating that decisions in certain municipalities have to comply with Liechtenstein's legal and political standards. Therefore, Liechtenstein considered following the decision of the Swiss Federal Court on this matter.

In response to the above-mentioned questions, Mrs. Marxer emphasised that the Working Group against Racism, Anti-Semitism, and Xenophobia was charged with exploring the possibility of amending the current legislation on naturalization of foreigners. Concerning resident permit status, she stressed that no regard is made to national origins. This statement was reiterated by Mrs. Alicia Langle. Currently, the Working Group considers having the possibility to reduce the duration of residence. However, she stressed that sufficient language skill and knowledge about Liechtenstein's history and culture are needed if in the future the duration of residence is considered to be shortened. Although resident permit status does not relate to national origin, Mr. Ewomsan questioned whether there is a possibility that the naturalisation process of foreigners may be linked to the size of their assets. Mr. Ritter replied that there is a possibility of linking the process with a certain minimum so that the person to be naturalised will not depend on the State.

Cross-border commuters

The written replies stated that most cross-border commuters are citizens of the European Economic Area (EEA) or Switzerland. There are very few cross-border commuters who are citizens of third States. Under Regulation 1612/68 on Social Benefits and Regulation 1408/71 on the Coordination Of Social Security, workers employed as cross-border commuters enjoy the same salary and working conditions as Liechtenstein workers. Such provisions also apply to citizens of third states. The delegation stated that the possibility for Liechtenstein to issue resident permits to all cross-border commuters is very limited.

Integration of Muslims

Although the Committee does not specifically deal with religious discrimination, Mrs. Marxer provided the Committee with information on the integration of Muslims. She emphasised that in Liechtenstein, the Muslim population has grown rapidly to comprise 5% of the population. In 2004, the Government created a Working

¹⁶ Committee's General Recommendation No. 30 Chapter IV paragraph 13 stated that State Party has to "ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship or naturalization, and to pay due attention to possible barriers to naturalization that may exist for long-term or permanent residents".

Group on the Integration of Muslims. This Working Group is considered as a bridge between the Liechtenstein population and the Muslims living in Liechtenstein. Mr. Yutzis welcomed these positive measures. However, he remained concerned that there was no mosque in Liechtenstein. Mrs. Marxer stressed that the Working Group is currently dealing with the acquisition of premises (mosque for Muslims to practice their religion) and considering the creation of last resting-places in Liechtenstein for Muslims. An introduction to Islam at the primary school level is also being developed.

Right-wing extremism

The phenomenon of right-wing extremism in the last few years has drawn the Government's attention. To deal with this issue, the Government appointed the Violence Protection Commission in July 2003 to observe, document and to provide early warning on the situation of right-wing violence in Liechtenstein. The Country Rapporteur expressed his appreciation at the creation of the Violence Protection Commission. He considered that the Government has given great attention not only to right-wing extremism but also to neo-Nazism.

As the Chief of the Criminal Police and as the Head of the Violence Protection Commission, Mr. Jules Hoch provided recent developments on this issue to the Committee. He stressed that in the last few years a small core right-wing extremist group has become increasingly linked with foreign countries and has become more strongly polarised. Worse, young people tended to affiliate with such groups. In response to the facts given, Mr. Prosper raised several questions concerning the root cause of such tendencies¹⁷ stating that this might emerge from social problems. Mr. Yutzis had a slightly different assessment from Mr. Prosper's. To him, the question was more cultural or anthropological. He stated that when there is a gap, the gap will be filled. However, he emphasised that his assessment may not be appropriate for Liechtenstein's case.

Mr. Tang acknowledged that the Government has taken positive measures to combat such a phenomenon through education. However, he emphasised that these measures cannot suffice in situations where such groups/organisations engage in acts of violence. This would be considered as a breach of Article 4 of the Convention. Prompt measures are needed before the situations go beyond control. In accordance with Article 4(b) of the Convention¹⁸, Mr. Yutzis did not see any intention from the Government to take active measures against the right-wing groups or organisations. He noted that Liechtenstein had not made any reservation under Article 4(b) of the Convention and therefore urged the Government to implement Article 4(b). Mr. Ritter stated that if there is a breach of Article 4 of the Convention, especially acts of violence, the perpetrators will be prosecuted under the Criminal Code.

In response, Mr. Hoch stressed that the Government had given a mandate to the Violence Protection Commission to develop a strategy against right-wing extremism in Liechtenstein by the end of 2007. The goal of this strategy is to keep the right-wing tendency as small as possible and to prevent young people from becoming polarised. In handling the right-wing problem, the police in Liechtenstein use two approaches: by strengthening the role of intelligence and by campaigning prevention acts. The prevention campaign "Respect – please" will be continuously sounded from February 2007 to July 2008.

Mr. Ritter stated that the Government has worked together with various experts from Germany and Austria who have similar problems with right-wing extremism. Further information on this matter will be presented in Liechtenstein's next report.

Awareness-raising of World War II

¹⁷ Mr. Gouttes and the Country Rapporteur reiterated this question.

¹⁸ It is stated that State Party "shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law".

Appointing the Independent Commission of Historians (the Independent Commission) on 22 May 2001 was noted by the Committee as an interesting step in raising public awareness of the importance of the fight against racial discrimination and the potential of genuine integration. The Independent Commission has the responsibility of assessing the history of Liechtenstein during the Second World War. The Commission presented its final report in 2005.¹⁹

Mr. Rodriguez asked about the results obtained and their implementation with regard to paragraphs 50 and 52 of the State's periodic report. According to the explanation given by Mrs. Veronika Marxer, the Government adopted a comprehensive catalogue of measures in May 2005. These measures covered several activities, including the annual public Holocaust Memorial Day; the publication of a source volume on the history of the 1930s and 1940s; and the implementation of two funded international projects that will be dedicated to the commemoration of the Holocaust and to peaceful cooperation.

Statistical data

In its previous Concluding Observation, the Committee regretted the absence of statistical data in Liechtenstein's initial report, particularly data on the number of children of refugees and asylum-seekers attending public school and intensive German language courses. In the present report, Liechtenstein provided more detailed statistics and documentation. Mrs. Alicia Langle, one of the members of the Working Group against Racism, Anti-Semitism, and Xenophobia (the Working Group) stated in her opening statement that the Working Group, which was created in 2002, has two main mandates, namely to implement the five-year National Action Plan against Racism and to implement the Committee's and the ECRI's recommendations. Mr. Ritter highlighted that racial hatred is the main area focused on in the project taken by the Working Group.

In 2005, the Working Group was given the additional mandate of combating anti-Semitism. She further said that the 2006 annual report of the Working Group was adopted by the Government and was currently being translated into English. As for responsibilities, the Working Group is obliged to document incidents of racial discrimination, anti-Semitism, and xenophobia and to gather statistical data. The delegation stated that a study on racism had highlighted gaps in the collection of both "hard" and "soft" data in connection with racism and discrimination. The project group of this study was appointed to improve the official statistical compilation of data so that it can come up with more concrete answers.

Other issues

Double discrimination

Mr. Kjaerum quoted information given by the NGO Group "Integration concerning the Office of Social Affairs". The information stated that 52% of the clients of the Office of Social Affairs were foreign citizens. These clients were often burdened with mutual and enormous social problems, particularly elderly men (male construction workers in their 50s and older), whose prospects for reintegration in the workforce are practically nil. He concluded that this was a classical form of racial discrimination (nationality, age and gender). The Country Rapporteur also referred to this as a form of double discrimination.

The delegation stated that the reason why reintegration for elderly men in the labour market was quite difficult was because, as construction workers, they lack sufficient professional skills. Mr. Ritter then stated that the Government has taken measures to deal with the issue of double discrimination. The Office of Social Service and Economic Affairs also tried to help these elderly men by finding other jobs, providing education or giving short term work opportunities. In relation to legislation, Mr. Ritter stated that a law providing for equal

¹⁹ The summary of the final report of the Independent Commission of Historians is available at <http://www.liechtenstein.li/en/pdf-fl-historikerkommission-zusammenfassung.pdf>.

opportunity for persons of disability was adopted last year and had already entered into force. This law is applicable to all persons living in Liechtenstein, including foreigners.

Conclusion and next steps

The Country Rapporteur concluded that Liechtenstein had established a good dialogue with the Committee aimed at mutual understanding and effective implementation of the Convention. Despite the situation on resident permits and citizenship, he noted that a flexible approach existed to overcome such situations. Following two days of dialogue with the delegation, he noticed that the Government was thinking of taking steps to shorten the residence requirement. However, he once again stressed that no distinction should be made on the basis of race and ethnic in the naturalisation process.

He then repeated the Committee's appreciation for the ratification of the amendment of Article 8 and the declaration under Article 14 of the Convention made by Liechtenstein.

Concerning the right-wing extremism, he noted the remarkable study on the role of Liechtenstein in World War II. He urged the State to fund a further a sociological study about the root causes of right-wing extremism so that preventative acts can be taken to suppress the growth of such ideology. As for statistical data, he urged that in the next report Liechtenstein provide not only recent data but also measures taken to follow up on the recommendations of the Committee.

The Country Rapporteur closed by pointing out that the Committee is currently preparing new guidelines for preparing reports. Liechtenstein's next report could be prepared with regard to the new guidelines.

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