



International Covenant on Civil and Political Rights

Distr.: General
12 July 2017

Original: English

Human Rights Committee 120th session

Summary record of the 3376th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 4 July 2017, at 3 p.m.

Chair: Mr. Iwasawa

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Second periodic report of Liechtenstein (CCPR/C/LIE/2; CCPR/C/LIE/Q/2 and Add.1)

1. *At the invitation of the Chair, the delegation of Liechtenstein took places at the Committee table.*
2. **Mr. Matt** (Liechtenstein), introducing the second periodic report of Liechtenstein (CCPR/C/LIE/2), said that the generally solid implementation of the Covenant in his country was supported by an independent, impartial judiciary and a system of representative and direct democracy. With regard to the latter, a regrettable development had nevertheless occurred in connection with the February 2017 parliamentary elections, when the proportion of female representatives had fallen from 20 per cent to 12 per cent. Evidently the measures undertaken in recent years to strengthen women's participation in politics needed to be made more effective.
3. He wished to highlight five areas in which his country had strengthened its implementation of the Covenant since submitting its initial report in 2004.
4. First, the Liechtenstein Human Rights Association, established by law in 2016, served as the country's independent national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Under its broad mandate of protecting and promoting human rights in Liechtenstein, the Association was tasked with advising the authorities and the public on human rights issues and counselling and assisting victims of human rights violations. It would also report on the national situation with regard to human rights.
5. Second, protection for crime victims had been enhanced with the passing of the Victims Assistance Act and the establishment of the Victims Assistance Office, which provided immediate and long-term support. The law governing sexual offences had been revised in 2011 to enhance legal protection for victims, and the list of offences prosecuted ex officio had been expanded to include dangerous threats against close family members, stalking, rape and other forms of sexual assault in marriages and partnerships, and forced marriages. The revision had also strengthened victims' rights in criminal proceedings.
6. Third, the rights of persons deprived of liberty were better protected as a result of an extensive revision of the relevant legislation. The Execution of Sentences Act had been updated in 2008 to include a formal procedure for filing complaints about any decision or order or any conduct of corrections staff that affected a detained person's rights. An independent Corrections Commission had been established to monitor compliance with relevant provisions and the treatment of prisoners. The Code of Criminal Procedure included provisions whereby arrested persons must be immediately informed of the reason for their arrest, of their right to contact a person of trust and a defence lawyer, and of their right to remain silent. Furthermore, suspects were now entitled to consult a lawyer before any questioning.
7. Fourth, efforts to promote tolerance and reduce violence in the public sphere had included a plan to combat right-wing extremism during the period 2010-2015 and a campaign to raise public awareness of the issue. While such extremism had receded in recent years, some cases of religious radicalization had been registered. The Violence Protection Commission had instituted preventive measures in that area.
8. Fifth, measures were in place to foster the integration of foreigners. Those planning to take up long-term residence in Liechtenstein were asked to enter into integration agreements, whose core elements included acquiring adequate knowledge of the German language and of the country's political and legal institutions, history and culture. His Government viewed education and participation in the labour market as cornerstones of integration. Standard German had replaced the local dialect as the official language of instruction at all levels, and children whose first language was not German were given special support in learning the language.

9. **Mr. Fathalla** said that the State party, in its replies to the list of issues (CCPR/C/LIE/Q/2/Add.1) concerning the invocation and application of the Covenant in court decisions, had given examples only from the Constitutional Court's jurisprudence. Could the delegation provide examples from other courts?
10. He asked what was meant by "largely" in the statement, in paragraph 1 of the replies, that the guarantee of fundamental rights under the Covenant was "largely covered" by the protection of fundamental rights guaranteed in the Constitution.
11. Referring to the statement in paragraph 6 of the replies that neither the Office of the Public Prosecutor nor the courts had taken specific measures to raise awareness of the Covenant, he asked whether there were plans to do so. Noting that the training mentioned in the paragraph was apparently provided only to judges and to staff of the Office of the Public Prosecutor, he asked how lawyers not employed by that office could acquire such training.
12. He asked how the law guaranteed the independence of members of the Liechtenstein Human Rights Association, how they were chosen, how the Association was funded and how adequate representation of the range of social forces was ensured. How did the Association counsel and assist victims of human rights violations, and to whom would it report on the national situation with regard to human rights? What was the nature of its relationship with NGOs?
13. **Ms. Pazartzis**, referring to the State party's reservations to article 14 (1), article 17 (1), and article 26 of the Covenant, said that the Committee took note of the statement, in paragraph 1 of the report, that when national legislation conflicted with the provisions of an international treaty to which the State party intended to accede, the parliament either amended the legislation or entered a reservation to the treaty. Thus far the State party had entered a reservation in every instance of incompatibility.
14. The Committee, in paragraph 20 of its general comment No. 24, had stated that it was desirable for a State entering a reservation to indicate in precise terms the domestic legislation or practices that it believed to be incompatible with the Covenant, and to specify the time period it required to render its laws and practices compatible with the Covenant, or why it would not be able to do so. Furthermore, States should periodically review the need to maintain reservations. Had the State party contemplated proactively changing its legislation so that it would not need to enter reservations to international treaties?
15. **Mr. Shany**, acknowledging the State party's recent efforts to avoid declaring states of emergency, said that the Committee nevertheless remained concerned that the constitutional provisions governing powers to derogate from obligations under the Covenant did not conform to the requirements of article 4 of the Covenant. Those concerns had been expressed in the Committee's concluding observations on the State party's initial report (CCPR/CO/81/LIE).
16. Noting that persons with disabilities often suffered multiple forms of discrimination, he wondered whether the State party's legal framework with regard to intersectional discrimination was sufficiently robust.
17. Regarding the participation of persons with disabilities in the labour market, he asked what measures were taken to integrate such persons, and whether those measures had been successful. Did persons with disabilities have sufficiently diverse employment options? What measures, such as incentives for employers, was the State party taking to support the hiring of persons with disabilities and the implementation of reasonable accommodations in workplaces? Were employers required by law to take steps in those areas?
18. He requested more information on the pilot projects mentioned in Article 20 of the Law on the Equality of Persons with Disabilities.
19. He requested clarification of the interplay between paragraphs 3 and 4 of article 10 of the Law. Paragraph 3 permitted the consideration, in assigning work, of special attributes required to perform a given task, and which a person with a disability might lack. While that distinction might be sensible, paragraph 4 permitted distinctions on the basis of wages,

and the two paragraphs, taken together, could be interpreted as meaning that persons with disabilities could legally be relegated to lower-paid jobs.

20. He asked the State party to provide an update on the status of its ratification of the Convention on the Rights of Persons with Disabilities.

21. **Ms. Jelić** asked what institutional framework was in place for combating discrimination, and how the independence of institutions working in that field was ensured.

22. The Committee on the Elimination of Racial Discrimination, the Human Rights Committee and the Council of Europe had all, on various occasions, criticized the Government's Equal Opportunities Unit for its lack of independence and of a comprehensive mandate. She asked what was being done to improve the situation.

23. While the State party was to be congratulated on having amended the list of prohibited grounds of discrimination in article 283 of the Criminal Code, further information on the steps taken to adopt legislation to prohibit direct, indirect and multiple discrimination would be helpful. In addition, the Committee would appreciate more specific information on the continuing training organized for prosecutors and judges. What kind of activities had been undertaken in that regard? In the light of the summary of the State party's anti-discrimination legislation given in paragraph 16 of its replies to the list of issues (CCPR/C/LIE/Q/2/Add.1), she would be grateful for clarification regarding the comprehensiveness of that legislation and regarding the term "personality of employees" and the manner in which that term was interpreted in practice. Did the Gender Equality Act and the Law on the Equality of Persons with Disabilities contain provisions on direct, indirect and multiple discrimination?

24. The Committee would appreciate an update on the gender balance in the composition of the Government and specific information on the efforts made to improve the participation of women in political life and their representation in decision-making positions and on the wage gap between men and women. In the light of the findings of a recent report by the European Commission against Racism and Intolerance, she would be grateful for an update on the implementation of its recommendation that a number of the provisions of the Foreigners Act should be abrogated and wished to know what measures had been taken to specify clearly the respective responsibilities of the new Office of Social Services and of the Ombudsman's Office and to ensure the independence and effectiveness of the national specialized body for combating racism and racial discrimination.

25. **The Chair** said that he wished to know why the State party, which maintained a reservation to article 26 of the Covenant, could not accept a general prohibition against discrimination. He noted that, in its Views on communication No. 172/1984 (*Broeks v. The Netherlands*), which it had adopted in 1987, the Committee had concluded that article 26 of the Covenant prohibited discrimination in law and in fact in any field regulated and protected by public authorities.

The meeting was suspended at 3.50 p.m. and resumed at 4.15 p.m.

26. **Mr. Matt** (Liechtenstein) said that extensive reference had been made to the jurisprudence of the Constitutional Court because it had primary responsibility for rendering decisions on cases involving violations of constitutional rights. The Covenant was widely disseminated in Liechtenstein. The participation of Liechtenstein in the reporting process would be covered in official press releases, training courses on the provisions of the Covenant had been organized for judges, and the Covenant was a reference point in the ongoing dialogue between the Government and NGOs. With regard to gender representation, two of the five members of the Government were women, and women and men were represented equally in the diplomatic corps.

27. **Mr. Ritter** (Liechtenstein) said that his country had not yet ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) because of the limited jurisprudence on its interpretation by the European Court of Human Rights. Similarly, the reservation to article 26 of the Covenant had not yet been withdrawn because the Committee's broad interpretation of the principle of non-discrimination established in that article, as elaborated in its general comment No. 18 and its Views on individual communications, imposed

obligations additional to those established in the Covenant itself. While Liechtenstein accepted the obligation to protect the right to non-discrimination in relation to the specific rights set forth in the Covenant, it could not accept the obligation to do so on a general basis.

28. In Liechtenstein, the enjoyment of a number of rights, including the right to housing subsidies and the right to educational grants, depended on the citizenship of the recipient. The position of Liechtenstein should be interpreted in the wider context of the full range of international instruments, including the International Covenant on Economic, Social and Cultural Rights, to which it was a party. While further consideration would be given to the ratification of Protocol No. 12 to the European Convention on Human Rights and to the withdrawal of the reservation to article 26 of the Covenant, the Government would first follow the development of the relevant jurisprudence of the European Court of Human Rights and the Committee, respectively.

29. Liechtenstein had also entered reservations to articles 14 (1) and 17 (1) of the Covenant following detailed consideration of the Committee's relevant general comments and of the reservations that it had entered on ratification of the European Convention on Human Rights.

30. It had been decided that the reservation to article 14 (1) of the Covenant would not be withdrawn, as some doubts remained with regard to the compatibility of that article with the national legal system. As a rule, the Code of Civil Procedure provided that hearings before the adjudicating court, including the judicial decision, should be public. Article 172 of the Code of Civil Procedure enumerated the grounds on which the public could be excluded. They corresponded to the grounds for exclusion established in article 14 (1) of the Covenant. However, other provisions of the Code of Civil Procedure could not unambiguously be justified in accordance with the permissible grounds for exclusion. Administrative proceedings were in general not public.

31. Liechtenstein had entered a reservation to article 17 (1) of the Covenant because it was difficult to judge whether the restrictions imposed on family reunification for foreign nationals included elements of unfairness, unpredictability or unreasonableness and might therefore be characterized as "arbitrary". As Liechtenstein faced severe immigration pressure, it would not be possible to relax the restrictions on family reunification for citizens of States outside the European Economic Area. In that connection, it should be noted that the special situation of Liechtenstein had been recognized by the European Union in the implementation of the Agreement on the European Economic Area. For example, although that Agreement was based, *inter alia*, on the free movement of persons, Liechtenstein had been authorized to introduce a quota system for residence permits.

32. Emergency decrees could be passed in accordance with the provisions of the Constitution. Unlike in some other countries, they could not set aside the Constitution as a whole and had to be proportionate. Emergency decrees had been issued in 1982 and 1990, but they had not resulted in restrictions to non-derogable rights. The emergency decree issued in 1990, the year in which Liechtenstein had joined the United Nations, had served in part to enable the country to fulfil its international obligations. As a safeguard against their abuse, emergency decrees had to be countersigned by the Prime Minister. Moreover, Liechtenstein had ratified the European Convention on Human Rights, and it had been established that its provisions had the same legal status as the Constitution. It should be noted that Liechtenstein did not have armed forces, which in practice would prevent the implementation of a full state of emergency. Emergency decrees ceased to apply six months after having been issued.

33. **Mr. Risch** (Liechtenstein) said that, under its founding legislation, referred to in paragraph 7 of the replies to the list of issues (CCPR/C/LIE/Q/2/Add.1) as the LHRA Act, the Liechtenstein Human Rights Association (LHRA) was an independent national human rights institution. The Association was free to raise self-generated income as a form of funding additional to the annual SwF 350,000 stipulated in the legislation. The LHRA reported to the public and its membership included individuals, NGOs and other institutions. In a founding ceremony held in 2016, the LHRA had adopted its articles of association. It had later rented offices and appointed a managing director, and in early 2017 it had subsumed the Ombuds Office for Children and Young People. In October 2017, the board

and management of the LHRA would be discussing the issues of gender equality, non-discrimination and protection from violence at a strategic workshop.

34. Several projects, including conferences and lectures aimed at students, had been implemented with a view to eliminating gender stereotypes and providing information on gender-atypical professions. Businesses were officially commended for measures which furthered gender equality; an award for equality of opportunity had already been in existence for some time, while an award recognizing family-friendly practices was due to be handed out for the first time in 2019.

35. With regard to women's participation in public life, in connection with the municipal elections slated for 2019, a portrait series had been planned to raise awareness of women who were or had been active in politics. Projects were also under way to address the issue of family-friendly workplace policies and the number of openings available at childcare facilities had increased in recent years.

36. **Mr. Matt** (Liechtenstein) said that he wished to emphasize that the LHRA's articles of association guaranteed its independence.

37. **Ms. Brändle-Nipp** (Liechtenstein) said that, under the 2016 amendment of the Foreigners Act, a residence permit could not be revoked if the person concerned had been living continuously in the country for more than 15 years, a period which was in line with domestic case law.

38. **Mr. Hasler** (Liechtenstein) said that because of the small size of the country, no statistics were available on the integration of persons with disabilities into the labour market. However, a round-table discussion on the matter had been held and the participants, both public and private actors, had concluded that the key to successful integration was proper training and a case-by-case approach. Persons with disabilities who sought to join the labour market fell into two categories: those who did not receive disability insurance and those who did. The first point of contact for individuals in the former category was the National Disability Insurance Institute, while for those in the latter it was the Special Education Centre, a charitable organization partly funded by the Government.

39. Although the Law on the Equality of Persons with Disabilities did not use the term "reasonable accommodation," it did provide a definition of what constituted a disproportionate burden for an employer with regard to the hiring of persons with disabilities. As to how the term "personality of employees" was interpreted under labour law, it was difficult to be specific because of the low number of relevant court cases. Lastly, the Government had considered ratifying the Convention on the Rights of Persons with Disabilities, but because of the limited resources available to such a small administration, no decision had been made as yet.

40. **Mr. Fathalla** said that he had understood that the Covenant could only be invoked in cases which involved the Constitutional Court. Further details on the matter would be appreciated. It would also be helpful if the delegation could provide clarification on the concept of "self-generated" financing for the LHRA. Finally, it would be useful to know how the LHRA reported to the public.

41. **Mr. Shany** said that he had understood that the European Convention on Human Rights had been incorporated into the Constitution and that it would be useful to know how the status of the Covenant differed from that of the Convention. With regard to comprehensive anti-discrimination legislation, it was unclear why such a cautious approach was being taken in respect of the reservation to article 26, especially since the State party had ratified without reservation the Covenant on Economic, Social and Cultural Rights, which contained a similar provision.

42. **Ms. Jelic**, reverting to an earlier question, asked whether steps had been taken to amend anti-discrimination legislation by stipulating the prohibition of indirect and multiple discrimination and if so, where the relevant provisions could be found.

43. It was a matter of concern that Liechtenstein had not yet signed or ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Did the State party have any plans in that regard? The delegation

should also provide a more detailed description of the training given to prosecutors, judges and police officers on the treatment of victims of domestic violence.

44. Noting with satisfaction that pregnant women involved in abortions were no longer subject to criminal prosecution, she asked what practical implications that had, since abortion remained a crime for which all the other persons involved in its performance were subject to prosecution.

45. It would be interesting to learn more about the reorganization of the relationship between the State and religious communities. Information was also needed on the measures taken to respect and guarantee the rights of minority religious and non-denominational communities. In addition, details on whether hate-based violence was covered by the mandate of the Violence Protection Commission would be appreciated.

46. **Mr. Shany** said that safe and legal abortion facilities should be made available under all circumstances, including where there was fatal fetal impairment. With regard to the criminal sanctions applicable under the revised legislation on termination of pregnancy, he asked whether the Criminal Code provided for an exception in cases of fatal fetal impairment. It would be interesting to learn whether the existing exceptions under which abortion was not punishable by law were linked to gestational periods. It would also be helpful to receive some clarification on prosecutorial policy regarding abortions procured outside the State and to learn whether any women had been prosecuted for procuring such abortions.

47. The Committee on the Elimination of Discrimination against Women had noted that women from disadvantaged groups encountered difficulties in accessing sexual and reproductive health services. Had any measures been taken to improve such access? Lastly, given that health-care professionals were responsible for ensuring that training and treatment practice met current standards for the termination of pregnancy, he asked whether the State envisioned ultimately taking on a supervisory role in that regard.

48. **Ms. Pazartzis** said that it would be interesting to know to what extent the revised Execution of Sentences Act was being applied in practice to ensure strict separation between prisoners on remand, convicted persons and individuals detained under immigration laws. She asked what progress had been made by the working group appointed to re-evaluate the corrections system and whether the Act would also be re-evaluated. She enquired whether the previously publicized plans to expand the capacity of the National Prison were likely to be implemented. She also wished to know whether asylum seekers in detention were held in the same premises as persons detained on criminal charges and whether any asylum seekers, in particular minors, were currently being held at the National Prison.

49. She asked whether developments in the treatment of persons deprived of their liberty were reflected in the 1982 bilateral treaty with Austria regarding the placement in Austrian prisons of persons sentenced to imprisonment for more than two years. As the treaty contained no safeguards for detainees under 18 years of age, she asked whether any such persons were serving sentences in Austria. She would like to be informed whether the authorities in Liechtenstein, in particular the National Preventive Mechanism and the independent Corrections Commission, had access to prisoners held in Austria, whether the revised Execution of Sentences Act contained provisions on prison sentences served abroad and whether Liechtenstein had a similar bilateral treaty with Switzerland.

50. Noting that, in its concluding observations on Austria contained in document CCPR/C/AUT/CO/5, the Committee had raised concerns regarding the deficiencies of the Austrian penitentiary system, she asked what Liechtenstein was doing to ensure that the rights of detainees transferred to Austrian facilities were upheld.

51. **Mr. Fathalla** said that he would appreciate a clarification regarding the criteria for the selection of judges, in particular concerning the selection procedure itself, and the approach to the publication of verdicts issued by disciplinary tribunals, as the condemnation of a judge should be considered a matter of public interest.

52. He asked what specific changes had been made to the relationship between religious communities and the State and when the second reading of the constitutional amendment to

remove the Catholic Church from the position of national church was scheduled to take place. He would welcome more information on the steps taken to review the allocation of public funds to religious denominations and on the efforts made following the integration conferences held in 2011 and 2012 to promote interculturality.

53. **Ms. Cleveland**, referring to paragraph 54 of the replies to the list of issues (CCPR/C/LIE/Q/2/Add.1), said that she wished to know how the Government defined “serious danger to life” and “serious damage to health” when deciding whether to grant a woman an abortion and to what extent those definitions took into account the mental health of the woman.

The meeting was suspended at 5.30 p.m. and resumed at 5.45 p.m.

54. **Mr. Ritter** (Liechtenstein) said that the problem with the statistical data was not that they were difficult to gather, but rather that, given how small the population was, the available sample size was not always statistically relevant, which made it difficult to identify trends.

55. Referring to the information provided in Liechtenstein’s core document (HRI/CORE/LIE/2012) regarding the implementation of human rights treaties, he emphasized that, in accordance with the Constitutional Court Act of 27 November 2003, any person who believed that one of his or her rights under the Covenant had been violated by the final decision of a court or public authority could appeal the decision to the Constitutional Court. The law thereby granted international human rights instruments a specific, more favourable status.

56. The Government had not withdrawn the reservation to article 26 of the International Covenant on Civil and Political Rights following its ratification of the International Covenant on Economic, Social and Cultural Rights, because, given the overlap between the covenants, it wished to make clear under which procedures the rights referred to in article 26 could be invoked.

57. Courts were not forbidden from discussing the provisions of the International Covenant on Civil and Political Rights. In practice, however, the Constitutional Court dealt with most cases involving rights guaranteed under the Covenant, given its specific mandate to assess the compatibility of international instruments and domestic laws. That arrangement expedited the proceedings for complainants, given that, if the Court ruled against the complainant, he or she could appeal directly to international bodies such as the Human Rights Committee.

58. Any structures developed under the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence needed to cover not only violence against women, but also domestic violence against all persons. Liechtenstein had signed the Convention and only minor amendments to domestic law were needed before it could be ratified. Those amendments were expected to be made as part of a general revision of the Criminal Code in 2018. The reporting burden imposed by the Convention had also been taken into account, which was particularly substantial for a country with such a small administration.

59. **Mr. Risch** (Liechtenstein) said that, in addition to receiving funding from the Government, the Liechtenstein Human Rights Association was authorized to raise funds from other sources. Furthermore, it was standard practice for the annual reports of non-governmental organizations like the Association to be published in the media. The Association had attracted significant media interest since its establishment.

60. **Mr. Langenbahn** (Liechtenstein) said that the subjects of domestic violence and violence against women, including the treatment of victims, formed an important part of training for officers of the Security and Traffic Division and of the National Police. The training focused in particular on case studies and the requirements for dealing with such cases. Executive officers also underwent annual training on the subject, during which they analysed cases and discussed ways of enhancing the role of the National Police. In addition, an office specializing in domestic violence had been established within the Security and Traffic Division, which served as the main contact point for police officers, representatives

of other authorities involved in domestic violence cases, non-governmental organizations and victims.

The meeting rose at 6 p.m.