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Summary record of the first part (public)* of the 3377th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 5 July 2017, at 10 a.m.

Chair: Mr. Iwasawa

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.3377/Add.1.

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The meeting was called to order at 10.05 a.m.

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

*Second periodic report of Liechtenstein (continued) (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. Langenbahn** (Liechtenstein) said that the Government sought to resolve penitentiary issues through international cooperation; as Liechtenstein was a small country with few prisoners, it would not be cost-effective to develop a complex penitentiary system at the domestic level. By cooperating with its neighbouring countries, Liechtenstein was able to ensure the proper management of all types of prisoner, including drug addicts and highly dangerous individuals. Its ties with Austria were particularly strong in that field, because the Code of Criminal Procedure and the Execution of Sentences Act were closely modelled on Austrian legislation and judicial interpretation of those instruments was often informed by Austrian case law, which was far more extensive than that of Liechtenstein.
3. It was not necessary to update the treaty of 4 July 1982 between Liechtenstein and Austria on the placement of convicts because the issues governed by that instrument, such as ministerial procedures and pricing, were mainly administrative. The execution of sentences was regulated by the national legislation of Austria and Liechtenstein, which was continually updated to reflect developments in that area. There was no need for a bilateral treaty with Switzerland because the Swiss Government had adopted legislation on mutual legal assistance which provided that persons sentenced abroad could serve their sentence in Switzerland.
4. As outlined in paragraph 46 of his country's replies to the list of issues (CCPR/C/LIE/Q/2/Add.1), the authorities were able to monitor the situation of all prisoners from Liechtenstein who had been placed in Austrian institutions through the good offices of the prison in Feldkirch, Austria. Under the terms of the treaty of 4 July 1982, the authorities of Liechtenstein could withdraw prisoners from Austria at any time. The Corrections Commission did not have access to prisoners who were being held in Austria; however, it maintained close contact with the Austrian national preventive mechanism.
5. The question of safeguarding the rights of minors imprisoned in Austria had never arisen, because prison sentences were rarely imposed on minors in Liechtenstein and no convicted minors had ever been, or would ever be, imprisoned in Austria. The Governments of the two countries had agreed that a special solution should be found for any minor who was sentenced to a term of imprisonment.
6. It should be noted that asylum seekers were never placed in detention; rather, they were housed in special centres while their applications were processed. Persons who had been refused asylum — and who could therefore no longer be considered asylum seekers — were sometimes placed in detention while arrangements were made for their return.
7. The prison population was so small that separating different types of detainee was problematic, insofar as separation could result in isolation. In 2016, for example, there had been just one convicted prisoner in the National Prison, alongside other types of detainee, such as persons awaiting trial or extradition; in such cases, separation was avoided in order to preserve a degree of social contact between inmates. All detainees were accommodated in single cells, however, and could ask to be separated from other detainees, although requests for complete seclusion were subject to the approval of a psychologist. Double cells were used in special cases only, for example to accommodate two members of the same family.
8. The working group that had been appointed to review the detention system had submitted an initial report to the Government in December 2016. Its mandate had subsequently been extended and it was expected to submit a second and final report in July 2017, for follow-up by the Government in the autumn of 2017. The group had discussed a range of issues that were linked to the size of the prison, such as the difficulty of finding

work for detainees, taking into account their specific talents and abilities. It had considered the possibility of sending all convicted prisoners to larger prisons outside Liechtenstein, where they would have access to a broader range of work opportunities.

9. The group had also discussed setting up a special programme for the social reintegration of prisoners and transferring prisoners back to Liechtenstein from Austria at an earlier stage in their sentence to participate in that programme. Another option would be to transfer prisoners who were reaching the end of their sentence to an open prison in Switzerland, where they could take on more responsibilities and prepare for life after prison. It had been widely agreed that it would make more sense to increase cooperation with neighbouring countries on penitentiary issues, rather than expanding the National Prison in Vaduz.

10. **Mr. Risch** (Liechtenstein) said that the Government had adopted an integration plan, had set up an information portal for migrants and had organized information sessions for migrants, in collaboration with NGOs. The most recent event of that kind had focused on labour law and residence permits. Various NGOs had launched initiatives to support migrants, such as the information and counselling programme *Integra*, which was implemented by the NGO *Infra*. Information and counselling were also provided by the Liechtenstein Employees' Association. Lastly, migrants had access to State-funded German language courses, which catered for all levels of ability. Positive newspaper reports would highlight the quality of life of migrants.

11. **Mr. Hasler** (Liechtenstein) said that the concept of multiple discrimination was not provided for in national legislation. However, both the Gender Equality Act and the Law on the Equality of Persons with Disabilities established a distinction between direct and indirect discrimination, defining the latter as a situation where apparently neutral rules or criteria resulted in discrimination against persons of a particular gender or persons with disabilities.

12. As outlined in paragraph 53 of his country's replies to the list of issues, the Religious Communities Act to separate Church and State, which had been adopted by the parliament five years previously, had not yet come into force because two municipalities had not yet reached agreement with the Church regarding the distribution of property. The Prime Minister had recently informed the parliament that the problem was unlikely to be resolved in the foreseeable future.

13. Religions other than Catholicism tended to be organized as private associations and could, in that capacity, apply for State and municipal funding. Some 300,000 francs a year were thus allocated. Public funds were also available for certain religious projects; for example, religious instruction for Muslim children at the primary school level was supported by the State as part of integration measures.

14. The Violence Protection Commission had the mandate to combat all forms of violence that undermined public order, including violent extremism, hooliganism, violence during sporting events and hate speech. It was difficult to measure the impact of tolerance promotion measures, but right-wing groups had become almost inactive since the Commission had begun publishing an annual report on them in 2010.

15. Regarding the termination of pregnancy, the law did not provide for abortions in the case of fetal unviability or for time frames within which abortions should be performed. An abortion could be justified by a threat to the expectant mother's mental health, and it was no longer illegal for women to undergo an abortion abroad. No one had ever been convicted in connection with an illegal abortion. Naturally, the State played a role in setting general health policy and the work of doctors was highly regulated, but no particular measures were enforced in regard to abortion.

16. **Mr. Ritter** (Liechtenstein), replying to a question raised about the criteria for the selection of judges, said that the wording of paragraph 47 of the replies to the list of issues was misleading: candidate judges not only had to be admitted to the judicial preparatory service, or traineeship programme, but also had to successfully complete the programme. Vacancies in the traineeship programme were advertised in the Official Gazette and admissions were decided by the Government on the recommendation of the Conference of

Court Presidents. Traineeships lasted three years and could be reduced to two years at the request of candidates who were qualified to practise law in Liechtenstein at the time of admission to the programme. Trainees received instruction in all areas of the judicial service with a view to being able to perform the function of judge independently.

17. All judges and prosecutors who were assigned a trainee were required to provide a written evaluation of the trainee's suitability for the position of judge, which was assessed on the basis of, inter alia, his or her technical knowledge, perceptiveness, decisiveness, oral and written communication skills and supervisory skills. Trainees were permitted to see their evaluation, which was an important element of the appointment process.

18. Naturally, if a judge was convicted of an offence, the information should be made public. However, not all misconduct was equally reprehensible and, therefore, it was not necessarily in the public interest to disclose the outcome of disciplinary proceedings. When imposing a penalty on a judge, consideration should be given to the nature of the act, its consequences and previous conduct. All disciplinary measures were recorded in the judge's file.

19. The Liechtenstein Languages Project had recently been launched to train language instructors and provide language classes to migrants and refugees who settled in Europe, particularly in German-speaking countries. The method emphasized verbal communication and fostered a motivational learning environment to help students overcome cultural barriers. Between February 2016 and May 2017, 150 instructors had been trained and had gone on to teach some 3,000 migrants, mostly in Germany and Austria. The Project had won an award and was an example of Liechtenstein sharing its expertise rather than drawing on the ideas and services of neighbouring countries.

20. **Ms. Cleveland** asked whether the State party could shed more light on how the Government and physicians interpreted the concept of serious risk to the life or health of the woman in the context of abortions.

21. **The Chair**, commending the State party for its support of the treaty body strengthening process, asked whether it intended to adopt the simplified reporting procedure, and if not, why not.

22. **Mr. Politi**, referring to paragraph 27 of the State party's replies to the list of issues on the exclusion of women from succession to the throne, said that the State party's interpretative declaration on article 3 of the Covenant appeared in practice to be more of a reservation than a declaration, especially in the light of the fact that the State party had entered a reservation to article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. Accordingly, it would be useful to know what the State party's view of the legal effects of its declaration were and whether it had considered how a reservation to such a fundamental provision could be consistent with the object and purpose of the treaty. He recalled that, notwithstanding the State party's stance on the status of the Law on the Princely House of Liechtenstein, compliance with international obligations was incumbent on all organs of the State and States could not invoke the specificities of their legal order to avoid discharging those obligations. Might the State party in the foreseeable future reconsider its exclusion of women from succession to the throne?

23. Concerning the State party's reply to paragraph 9 of the list of issues on the definition of torture, it would be helpful to know whether the consultation and decision-making process on the revision of the Criminal Code had been completed and, if so, what the outcome had been; specifically, whether torture would be made an independent offence and what the definition would cover. It would also be helpful to understand what the State party saw as the drawbacks of extending the use of audiovisual recording to all police interviews.

24. He would be grateful if the State party could explain how the Media Act and Media Promotion Act addressed violations of the freedom of expression and how certain provisions of the Criminal Code and the Code of Criminal Procedure resulted in a privileged status for the media, especially in relation to the offences of slander, libel and defamation. Were those types of offence prosecuted only at the request of the victim? How

many proceedings, if any, had been initiated during the reporting period in connection with such offences?

25. **Mr. Shany**, returning to an issue raised at the previous meeting, said that the State party's argument for maintaining its reservation to article 26 — which was, in brief, that discrimination in the economic and social spheres was more properly a matter for the Committee on Economic, Social and Cultural Rights — was not entirely persuasive. Human rights were indivisible and interdependent. Economic rights, for instance, were also civil rights.

26. It was hard to understand why, given the considerable overlap between the Covenant and many other international human rights instruments, the State party had singled out for a reservation an article addressing equality and discrimination in particular. The ability to assess a State party's equality legislation more broadly facilitated the work of the Committee. In addition, withdrawing the reservation, as he urged the State party to do, would enable persons subject to the jurisdiction of Liechtenstein to appeal to the Committee if they felt that their economic or social rights had been violated.

The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.

27. **Mr. Matt** (Liechtenstein) said that his country continued to support efforts to strengthen the treaty bodies. It had reported to the Committee using the standard reporting procedure rather than the simplified one, as its reports to the Committee had been submitted at intervals of considerable length. The simplified procedure would be useful if it reported at shorter intervals.

28. The declaration addressing the constitutional rules on the hereditary succession to the throne of the Reigning Prince was simply an expression of the State party's understanding of its obligations under article 3. Under the Constitution, the power of the State was vested in two sovereigns: the Reigning Prince and the people. The Prince was not considered a member of the executive branch of the Government.

29. **Mr. Langenbahn** (Liechtenstein) said that the information provided in the replies to the list of issues (CCPR/C/LIE/Q/2/Add.1, para. 31) reflected matters as they currently stood: namely, that the country had no plans to require the audiovisual recording of all police interrogations. Despite the absence of any fundamental objection on the part of the police, it was highly unlikely that Liechtenstein would amend its Code of Criminal Procedure to introduce such a requirement before any of the neighbouring countries did so.

30. **Mr. Ritter** (Liechtenstein) said that the issue of whether people who claimed to be victims of violations of their economic and social rights could file a complaint before an impartial body with a view to obtaining a remedy had not been fully resolved. The country's reservation to article 26 was logically consistent with its decision not to accept the complaint procedure under Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms or to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the parties to which recognized the competence of the Committee on Economic, Social and Cultural Rights to receive and consider communications. The authorities of Liechtenstein would nonetheless monitor international developments in the area of justiciability of economic and social rights.

31. **Mr. Hasler** (Liechtenstein) said that there were no established legal precedents that could shed light on the practical interpretation of the provisions under which a woman could legally seek an abortion, as those provisions had been introduced very recently. Work on a report on amendments to the Criminal Code, which would include a definition of torture, was expected to begin in the second semester of 2017. Torture was likely to be defined much as it had been in the Austrian Criminal Code.

32. The Media Act afforded journalists and other persons working in the media a number of protections. No one could be compelled to divulge a source, for instance. There had been no criminal cases involving media content during the reporting period.

33. **Mr. Shany** said that article 26 simply concerned equality before the law. Withdrawing a reservation to it would not require a State party to determine whether, as a

matter of principle, a person who claimed to be a victim of a violation of his or her economic or social rights could seek redress before a body such as the Committee.

34. **Mr. Matt** (Liechtenstein) said that the constructive dialogue would help his country further improve implementation of the Covenant. He reiterated his support for the work of the Committee and the treaty bodies in general.

The public part of the meeting rose at noon.