



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Consideration of reports submitted by States parties
under article 19 of the Convention**

**Additional follow-up information provided by Liechtenstein to the
concluding observations of the Committee against Torture
(CAT/C/LIE/CO/3)***

[18 May 2011]

* In accordance with the information transmitted to State parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

I. Introduction

1. At its 948th meeting on 11-12 May 2010, the Committee against Torture adopted concluding observations on the third periodic report of Liechtenstein (CAT/C/LIE/CO/3). The Committee requested further information within one year on three of its recommendations related to: (a) non-refoulement, rights of refugees and asylum-seekers, (b) domestic violence and (c) trafficking in persons. This paper provides further information on action taken and outlines recent developments on these issues over the past 12 months.

II. Paragraphs 14 and 15(a) of the concluding observations regarding non-refoulement, rights of refugees and asylum-seekers

2. The allegation in paragraph 14 of the concluding observations that Government officials exerted pressure on asylum-seekers by offering monetary rewards is not justified. The payments were made as support for the return voyage and, in light of their modest amount, did not serve as an incentive or means of pressure. Payments were made only to asylum-seekers who had already stayed in a different European country, voluntarily wanted to return there and thus withdrew their asylum application in Liechtenstein. The Government was responding to the express wish of those asylum-seekers. It is thus not accurate to speak of pressure exerted by Government officials.

3. Repatriation has been and continues to be undertaken only to States which are classified as safe by the Liechtenstein Refugee Commission and in which a proper asylum procedure can be guaranteed. (This Commission advises the Government in accordance with the Refugee Act on all questions relating to the acceptance of refugees and persons in need of protection, making recommendations to the Government and other competent authorities.)

4. In the case of the persons indicating that they were nationals of Somalia or Eritrea who arrived in Liechtenstein in autumn 2009, all repatriations were undertaken to Switzerland. If, pursuant to a Eurodac query by the Swiss authorities, the procedure was to be administered by a different Dublin country, the repatriation was undertaken only to such country. Refoulement to the home country (specifically Somalia or Eritrea) is thus ruled out. Asylum-seekers in Switzerland were not granted a procedure only in the event that Switzerland, as a Dublin member country, determined on the basis of a fingerprint query in the Eurodac system that a further Dublin country was responsible for administering the procedure.

5. The deadline for asylum-seekers "under preventive expulsion" for submitting a request to the competent authority for restoration of the suspensive effect has meanwhile in practice been extended to five days. This is sufficient to submit a request for restoration of the suspensive effect. The draft total revision of the Refugee Act (henceforth: Asylum Act), which is currently under legislative consideration, likewise provides for an extension of the appeals deadline to five days at the legislative level.

6. With respect to the recommendation made in paragraph 15(a), it should first be noted that a correct and differentiated consideration of this issue requires a distinction among four groups of persons who submitted an asylum application in Liechtenstein in 2009.

7. The first group (43 persons; of which 28 were from Eritrea and 15 from Somalia) consisted of persons entering Liechtenstein illegally whose route of entry could be demonstrated in a credible manner. These persons were transferred back to Switzerland on the basis of the bilateral readmission agreement in force. It should be emphasized in this

regard that the persons concerned had the opportunity to apply for asylum in Switzerland. Not all of the persons took advantage of this opportunity, however. This first group of asylum-seekers is not entitled to a substantive review of their asylum applications submitted in Liechtenstein, since all of these asylum-seekers were shown to have been staying in a safe European country, where they could have submitted an asylum application before submitting their application in Liechtenstein.

8. The second group (75 persons; 45 from Somalia and 30 from Eritrea) consisted of asylum-seekers who "absconded", i.e. persons who left Liechtenstein without notifying the Immigration and Passport Office or Refugee Assistance. These asylum-seekers breached their duty to cooperate and therefore likewise are not entitled to a substantive review of their asylum applications.

9. A third group consisting of a total of 76 persons (40 from Somalia and 36 from Eritrea) withdrew their asylum applications.

10. The fourth group (26 person; 17 from Somalia and nine from Eritrea) consisted of asylum-seekers applying for legal remedies in Liechtenstein. Their proceedings are currently pending either before the Administrative Court or the Government or, in a few cases, the Immigration and Passport Office. Over the course of these proceedings, it will be seen in which cases a substantive asylum procedure will be carried out.

III. Paragraph 30 of the concluding observations regarding domestic violence

11. In regard to this recommendation, it can be noted that the revision of Liechtenstein's sexual criminal law already announced in the dialogue with the Committee against Torture in 2010 has meanwhile been completed. The revision not only adjusted individual offenses to the new demands, but also in particular included the commission of these offenses within the family as *ex officio* offenses. This allows domestic violence in the sexual sphere to be prosecuted also on a criminal basis once it becomes known. This means in particular that the victim's consent to criminal prosecution of the perpetrator is now no longer required in the case of domestic violence – specifically in the case of dangerous threats against close relatives, stalking, rape or sexual coercion in marital and domestic partnerships as well as forced marriage. The requisite legislative adjustments (amendment of the Criminal Code, the Code of Criminal Procedure, the Law on the Criminal Register and the Expungement of Judicial Convictions as well as the Execution of Sentences Act) were approved by the Liechtenstein Parliament in March 2011 and will enter into force on 1 June 2011. It should be noted in this regard that several criminal offenses that may occur in connection with domestic violence were already classified as *ex officio* offenses prior to this legislative revision. This is true for instance of bodily injury (§ 83 of the Criminal Code), violation of maintenance obligations (§ 197 of the Criminal Code), and suppression of documents (§ 229 of the Criminal Code). Now that the legislative revision is complete, nearly all criminal offenses that might be related to domestic violence are thus deemed *ex officio* offenses. The few exceptions include the criminal offenses of trespassing (§ 109 of the Criminal Code), removal of a minor from the guardian's influence (§ 194 of the Criminal Code), and circumvention of officially decreed educational measures (§ 195 of the Criminal Code). These exceptions are due in part to Liechtenstein's long-standing practice of adopting criminal law provisions from Austria, where these offenses are not deemed *ex officio*. Additionally, Liechtenstein desires to gain experience in implementing the legislative adjustments now completed before any further adjustments are made.

12. In regard to the demand of the Committee against Torture that Liechtenstein should ensure prompt and impartial investigation of all allegations of domestic violence and should

prosecute and punish perpetrators, the following should be noted. The Liechtenstein National Police immediately responds to allegations of domestic violence. In this regard, the National Police has various preventive means at its disposal pursuant to the Police Act (e.g. expulsion or prohibition of entry). Where necessary, criminal proceedings are initiated immediately also in cases of domestic violence. In 2010, 13 criminal proceedings were initiated in this connection. In the first quarter of 2011, three such proceedings were initiated. The actions of the National Police and the Office of the Public Prosecutor are governed by the relevant legal provisions in this regard, especially the Code of Criminal Procedure.

13. It should also be noted that the National Police conducted a specific training session in 2010 on the topic of domestic violence with external specialists. This further enhanced the awareness of the responsible officers for this topic.

14. In regard to the measures for effective compensation and rehabilitation of victims of domestic violence, it should be noted that these victims – like other persons whose physical, mental or sexual integrity has been directly affected by a criminal offense, are entitled to victims' assistance in accordance with article 1 of the Victims Assistance Act (OHG). Victims' assistance may encompass the following five forms (article 2 OHG): counseling and immediate support, long-term support by the Victims Assistance Office, cost contributions for long-term support by third parties, compensation for damages, and legal aid. It should be emphasized in this regard that this assistance is not dependent on the willingness of the victim to cooperate with the Liechtenstein authorities in the criminal proceedings. Every victim of a criminal offense is entitled to support by the Victims Assistance Office (article 1 OHG). As the Committee against Torture notes, the office plays an important role in this connection. In 2010, the Victims Assistance Office counseled and took care of nine victims of domestic violence. The office's support included counseling, financial assistance, accompanying victims to the court for filing complaints and testimonies, administrative support, and referrals to experts. Of the nine victims, four received financial assistance in the total amount of approximately CHF 13,000. In the first quarter of 2011, no victims of domestic violence turned to the Victims Assistance Office.

15. In addition to the activities of the Victims Assistance Office, "out-of-court offense resolution" should also be noted, which has been conducted by Liechtenstein Probation Assistance since 2007. This instrument can be offered in accordance with §22g of the Code of Criminal Procedure also in cases of domestic violence, if the legal preconditions pursuant to §22a, paragraph 2, of the Code of Criminal Procedure and the psychosocial preconditions are met (i.e. if the victim consents and if the perpetrator assumes personal responsibility). Out-of-court offense resolution in connection with domestic violence emphasizes preventive aspects. It is intended as a contribution to ending and coming to terms with violence in existing or terminated partner relationships. Out-of-court offense resolution is administered by expert teams composed of one man and one woman. Over the course of the procedure, an attempt is made to achieve an end to violence, networking, strengthening of the victim, and changes in the perpetrator by way of individual talks and reconciliation discussions. Where needed or desired, progress can be monitored pursuant to the written agreement. Emotional and material restitution is part of the process and of the conclusion of the process. Out-of-court offense resolution is the only institution in which not only the criminal offense, but also the conflict is discussed, and in which the needs of the victim are addressed without relieving the perpetrator of responsibility. What is unique in this process is that victimized women are strengthened and accused men are changed in respect of their behavior.

16. Out-of-court offense resolution has been offered in 51 cases of domestic violence in partner relationships since 2007. 48 of these cases were referred by the Office of the Public Prosecutor and 3 by the Court of Justice. In 40 cases, there were 32 male perpetrators and

eight female perpetrators, as well as 32 female victims and eight male victims. In a further 11 cases, men and women were both accused of the offense as well as victimized. Of the total of 51 cases, 37 were concluded positively. 12 negative out-of-court offense resolutions went to trial before the Court of Justice, and two were suspended with probation assistance in accordance with §22f of the Code of Criminal Procedure. The number of cases referred was 19 in 2007 (12 with positive outcome), 14 in 2008 (11 with positive outcome), nine in 2009 (five with positive outcome) and also nine in 2010 (nine with positive outcome).

17. With respect to the statistics on domestic violence, it should be noted that the number of interventions by the National Police in this domain decreased by 25% in 2010 in comparison with the previous year. While 32 interventions were necessary in 2009, the National Police only had to intervene in 24 cases in 2010. In 17 cases, a mediation talk or police counseling by the National Police was conducted. In six cases, expulsion was necessary, and in one case the perpetrator was prohibited from entering the household. One disturber was taken into police custody. The number of police interventions relating to domestic violence in the first quarter of 2011 was five.

18. The conflicts took place both in partnerships and in families (young people against parents). In four cases, young people participated as disturbers, while three women perpetrated violence against men. The network with the Office of Social Affairs, the Crisis Intervention Team, the Women's Home, and Probation Assistance is of the utmost importance to the National Police in this domain and is frequently drawn on in the case of interventions.

<i>Domestic violence</i>	<i>2010</i>	<i>2009</i>
Total interventions	24	32
of which mediation talks/police counseling	17	20
of which expulsions	6	9
of which prohibitions of entry	1	3

19. With a view to the next periodic report pursuant to the Convention against Torture, Liechtenstein is currently considering to what extent further statistical data on the topic of domestic violence can be systematically compiled and made available.

III Paragraph 31 of the concluding observations regarding trafficking in persons

20. In regard to the statement by the Committee against Torture that a high number of foreign women work in the seven nightclubs in Liechtenstein, it should be noted that the women working as dancers in Liechtenstein hold a short-term permit to stay in Liechtenstein, which generally is valid for only one month. Accordingly, it is not the case that more than 200 women work in the nightclubs for the entire year, but rather that on average only 20 women work in nightclubs each month, which substantially facilitates the monitoring and assistance of these women.

21. In regard to the Committee's demand that Liechtenstein should initiate an analysis on the phenomenon of foreign women working as dancers in nightclubs, the following should be noted. The Liechtenstein authorities pursue any indication or suspicion of human trafficking as soon as they learn of it. Human trafficking is an ex officio offense according to the Liechtenstein Criminal Code. The authorities would also report on uncovered cases of human trafficking. So far, however, no case of human trafficking in Liechtenstein has been reported.

22. A "Round Table on Human Trafficking" has existed in Liechtenstein since 2006, bringing together various authorities, victim support organizations and other offices involved. The Round Table pursues the goal of uncovering any cases of human trafficking and raising awareness on the topic. When this Round Table was formed in 2006, a study on the working and living conditions of nightclub dancers in Switzerland¹ provided the starting point for the body's work and projects. The study commissioned in 2006 by the non-governmental organization (NGO) "FIZ Advocacy and Support for Migrant Women and Victims of Trafficking" illuminated the context, the origin of the women, the recruitment process, and the problems and grievances relating to nightclub dancers in Switzerland. Since the Liechtenstein nightclub industry is closely linked to its counterpart in Switzerland, the study also reflects the situation in the Liechtenstein nightclubs. The conditions relating to permits to stay and work in Liechtenstein are equivalent to those in Switzerland. The visa issued by Switzerland is also valid for entry to Liechtenstein. As a protective measure, the permits are also made dependent on the dancers having worked in Switzerland immediately before they begin their work in Liechtenstein. The study provided indications of problematic areas to the Liechtenstein authorities and formed the basis for the measures initiated and implemented by the Round Table on Human Trafficking.

23. Additionally, the impact and results of the prevention project "Magdalena" were evaluated by the Round Table on Human Trafficking. In 2009, the Government further expanded its efforts to combat human trafficking in Liechtenstein on a preventive basis by way of the Magdalena project, which was initiated by the Round Table on Human Trafficking: The dancers employed in Liechtenstein bars and nightclubs have been obligated since spring 2009 to participate in an information event at which official representatives and the Victims Assistance Office brief the women on their legal situation. This event is intended to contribute to the reduction of exploitative situations on the scene and to provide potential victims of human trafficking with access to counseling and victims' assistance services. Because of the high fluctuation rate in this industry, the events take place on a monthly basis. The results of the pilot project were evaluated at the end of 2009. The project was shown to have had an impact. The women dealt more thoroughly with their legal situation and inquired about labor and social insurance issues at the various contact offices. This is an important indication of the positive impact of the information events with respect to reduction of exploitation and manipulation of the women. The National Police also states that the inspections of the scene have been significantly more efficient, due to the fact that the criminal police officers participating in the information events were recognized by the dancers and in light of the purpose of the inspections (protection of the dancers from exploitation). Accordingly, the dancers also cooperated more openly with the police officers. Mistrust of the police was largely eliminated. This is an important precondition for potential victims of human trafficking getting in touch with the authorities in the first place. Because of the positive results of the pilot project, the Government decided at the end of 2009 to continue the project. Monthly information events thus continue to take place, to which a total of 226 women working in one of the (then) six Liechtenstein nightclubs were invited in 2010. Only a few women did not appear at the events, most of whom on plausible grounds. In four cases, the Immigration and Passport Office imposed a fine on the employer. A new feature is also that the dancers notify the authorities when problems relating to labor law arise. This is a further significant indication that the information events have been effective. In 2011, approximately 70 women have participated in the information events so far (as of the end of March 2011).

¹ [1] Janine Dahinden, Fabienne Stants: Arbeits- und Lebensbedingungen von Cabaret-Tänzerinnen in der Schweiz; Swiss Forum for Migration and Population Studies; 2006

24. It should also be noted that a project group consisting of representatives of the authorities, victim support organizations, and NGOs conducted a campaign in autumn 2010 on the topic of trafficking of women and human beings with a focus on sex work in Liechtenstein for the purpose of informing and sensitizing the public. An exhibition entitled "No Glamour" was shown from 26 to 29 October 2010 along with the film "Lilja 4-ever". Additionally, a lecture evening on the topics of "Staying healthy in the sex industry" and "Trafficking in women – a business that violates human rights" as well as a moderated discussion with experts from Liechtenstein and abroad was organized. Seven classes of the continuing schools attended the exhibition, and two of these classes conducted a sex-education workshop. The events and the exhibition were attended by about 115 adults.

25. The following can be said about the possibilities of compensation and rehabilitation for victims of human trafficking. Like other persons whose physical, mental or sexual integrity have been directly affected by a criminal offense, victims of human trafficking are entitled to victims' assistance in accordance with article 1 of the Victims Assistance Act (OHG). Victims' assistance may encompass any of the five forms already mentioned above, in accordance with article 2 of OHG. With respect to human trafficking, it should also be emphasized that this assistance is not dependent on the willingness of the victim to cooperate with the Liechtenstein authorities in connection with any criminal proceedings. Every victim of a criminal offense is entitled to support by the Victims Assistance Office (article 1 OHG). As already set out in the Liechtenstein Government's guidelines on combating human trafficking in 2007, potential victims of human trafficking receive support and counseling by specialized institutions. They are granted a time for consideration of 30 days. This allows the potential victim to recover and make a considered decision concerning cooperation with the competent authorities. During this period, no enforcement measures are taken pursuant to immigration law. If the victim decides to work together with the authorities, a short-term stay permit or stay permit may be granted to the victim in accordance with article 21 of the Foreigners Act and article 16(d) of the associated Ordinance on the Admission and Stay of Foreigners. Return, rehabilitation and reintegration assistance are made available to the victim in cooperation with the specialized institutions.

26. For additional details concerning the work of the Victims Assistance Office, see the response to question 22 in the list of issues which was transmitted to the Committee against Torture prior to presentation of the report.
