

Introductory Statement Liechtenstein, CESCR Presentation Geneva, 3 May 2006

Madame Chair, Honorable Members of the Committee

My delegation is pleased to be meeting here in Geneva with the Committee on Economic, Social and Cultural Rights. Since we are discussing Liechtenstein's initial country report pursuant to the Covenant, our delegation is particularly looking forward to this dialogue.

Liechtenstein considers all human rights to be universal, indivisible and interdependent and interrelated, and attaches great importance to the international and regional human rights agreements and their implementation, and it therefore strives to fulfill its reporting requirements in a timely and substantive manner – even if this is not always easy for a small country with limited human resources. At the same time, Liechtenstein is committed to strengthening the system of human rights protection within the framework of the UN. The treaty bodies are an important pillar of this system. Liechtenstein is therefore following the reform of the treaty bodies with great interest. We are honored to be able to make an active contribution to this reform debate as hosts of the expert seminar in Malbun in May 2003 and are planning a follow-up Malbun II meeting in July 2006.

Figures on the composition of the population and commuters

With a population of about 34,000, Liechtenstein is a very small State, which, however, is experiencing similar developments with respect to population and population structure as other European States. Liechtenstein is also undergoing demographic change. The population statistics show that the share of older persons as part of the overall population has risen in recent decades, even if the rise has not been as strong as in the neighboring countries of Switzerland and Austria. In a European comparison, Liechtenstein's population growth is above average. The population rose by 32.1% between 1980 and 2000. A special characteristic of Liechtenstein is the high – and still rising – number of cross-border commuters. Currently, nearly every second job in Liechtenstein is held by cross-border commuters from abroad.¹ The Liechtenstein economy has therefore become an important employer for the neighboring regions of Switzerland and Austria. Accordingly, cooperation at the regional level is very close, especially with respect to economic, social and cultural issues.

Significance of EEA membership for the promotion of the rights guaranteed by the Covenant

Liechtenstein has been a member of the European Economic Area (EEA) since 1995, with the consequence that approximately two thirds of EU law also applies in Liechtenstein. These regulations implement the four basic freedoms (goods, persons, services, capital), but also encompass so-called horizontal and flanking measures in the areas of social security, education, environmental protection, gender equality, consumer protection, and worker protection. In all these areas, Liechtenstein has been adopting and implementing the same standards as the 25 EU member states. In the last 10 years, over 4400 EU legal acts have been adopted by Liechtenstein or implemented into Liechtenstein law. Important acts that Liechtenstein has adopted in the last 2 years in the area of economic, social and cultural rights include the directives on part-time work² and fixed-term work³, the directive on informing

¹ As of 31 December 2004, cross-border commuters to Liechtenstein constituted 47.1% of the workforce.

² Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex : Framework agreement on part-time work (OJL L 14, 20. 1. 1998, p. 9).

and consulting employees⁴, the directive on the burden of proof in cases of discrimination based on sex⁵, the directive on parental leave⁶, and the directive on the protection of young people at work⁷.

The Liechtenstein Parliament is currently considering a revision of our Gender Equality Act to incorporate the EU directive on implementation of the principle of equal treatment for men and women with regard to access to employment, vocational training and promotion, and working conditions⁸. Other EU acts whose implementation will be considered by Parliament in the near future include the directive on the Involvement of employees in a European company⁹, which supplements the Council Regulation on the Statute for a European Cooperative Society (SCE)¹⁰, and the directive on takeover bids¹¹, which lays down minimum requirements for takeover bids targeting companies subject to the law of a Member State and whose shares are at least in part admitted for trading on a regulated market.

Within the framework of the EEA, Liechtenstein also participates on equal terms in about 30 EU programs in education, research and development, culture, emergency management, public health, equal opportunity, etc. In 2007, Liechtenstein will participate in the European Year of Equal Opportunities for All¹².

Further legislative and other measures to promote the implementation of the Covenant

The following measures relating to economic, social and cultural rights in which Liechtenstein is currently engaged are of particular note:

Disability Equality Act

As in many other countries, the equality of people with disabilities has in recent years been given increased attention in socio-political debates. In 2003, preparations began for the creation of a law on the equality of people with disabilities; Parliament considered the proposal in a first reading in March 2006. The goal of establishing comparable or equivalent living conditions for people with disabilities has so far been approached through the social insurances, especially disability insurance. This includes the payment of benefits to cover loss

³ Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJL L 175, 10. 7. 1999, p. 43).

⁴ Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation (OJL L 80, 23. 3. 2002, p. 29).

⁵ Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex (OJL L 14, 20. 1. 1998, p. 6).

⁶ Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (OJL L 145, 19. 6. 1996, p. 4).

⁷ Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJL L 216, 20. 8. 1994, p. 12).

⁸ Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJL L 269, 5. 10. 2002, p. 15).

⁹ Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees (OJL L 294, 11. 10. 2001, p. 22).

¹⁰ Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE) (OJL L 207, 18. 8. 2003, p. 1).

¹¹ Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (OJL L 142, 30. 4. 2004, p. 12).

¹² Proposal for a decision of the European Parliament and the Council on the European Year of Equal Opportunities for All (2007) - Towards a Just Society [COM/2005/0225 final].

of employment income due to disability, but also special schools, the promotion of reintegration into the workplace, etc. The planned Disability Equality Act will now complement this proven approach with a new, additional aspect: Circumstances and obstacles posing a burden for people with disabilities will be eliminated, and a framework will be established to prevent the marginalization and exclusion of people who do not correspond to general norms in all respects. The overarching goal of the draft bill is therefore *de jure* and *de facto* equality of people with disabilities in society. In concrete terms, the proposal provides for a general prohibition of discrimination and harassment of people with disabilities and in particular also for protection from discrimination in the workplace. Moreover, the proposal envisages that public buildings, facilities and public transportation will be designed without barriers or will be adaptable. Without barriers means that these areas will be accessible and useable for people with disabilities in the generally accustomed way, without specific difficulties and as a rule without help from third parties. Parliament will consider the bill in a second reading in the summer or the autumn of 2006; entry into force is expected on January 1st, 2007.

At the international level, Liechtenstein is committed to strengthening the protection and monitoring of the human rights of persons with disabilities and participates actively in the drafting of a comprehensive and integral international convention on that subject.

Measures for a strong social partnership

If a person in Liechtenstein believes his or her fundamental rights to have been violated, a multi-stage complaint procedure is available. This includes the possibility of having the Constitutional Court review the constitutionality of legal provisions. The Constitutional Court is competent to declare laws, ordinances, or parts thereof to be invalid.

An exemplary case with far-reaching consequences took place in 2004. In its judgment of November 29th, 2004, the Constitutional Court found compulsory membership of Liechtenstein businesses in the Chamber of Trade and Commerce (*Gewerbe- und Wirtschaftskammer*, GWK) to be unconstitutional and abolished such membership. The complainant had claimed that compulsory membership in the GWK violated several constitutional provisions as well as article 11 of the European Convention on Human Rights. The Constitutional Court affirmed the claim and invalidated the relevant provisions in the law concerning the GWK and in the bylaws of the GWK which illustrates that the fundamental rights are well protected by the Liechtenstein courts.

This judgment also had immediate and far-reaching legal consequences for the functioning of the social partnership in Liechtenstein. The abolition of compulsory membership in the GWK not only resulted in the withdrawal of numerous businesses from the GWK, but the withdrawing members were also no longer bound by the collective employment agreements negotiated with the Employees Association, which led to great uncertainty on all sides. Moreover, the Liechtenstein Employees Association lost crucial income from employer contributions, which the businesses had paid pursuant to the collective employment agreements. The GWK itself also faced financial problems due to the withdrawal of many businesses.

Since the cooperative social partnership is one of the cornerstones of the Liechtenstein economic order, the Government is strongly committed to maintaining and strengthening it. As an urgent measure, the Government therefore submitted a resolution to Parliament for one-time financial support of the Employees Association and the GWK. Recently, the Government decided on a comprehensive package of measures to restore the necessary legal

certainty and clarity for the Liechtenstein business location. For instance, the Government proposes that the problem of “outsider employers” arising from the abolition of compulsory membership – i.e., employers that do not belong to any employers association – be solved through the creation of a law declaring collective employment agreements to be universally binding. According to this draft law based on the Swiss model, the Government may extend application of a collective employment agreement by means of an ordinance to non-participating employers and employees of an economic sector or a profession. To guarantee that collective employment agreements are in fact complied with by all employers, the draft bill provides for legislative amendments as flanking measures relating to the posting and secondment of employees. Finally, in the case of sectors or professions without valid collective employment agreements, the draft bill provides that the Government will have the possibility of establishing minimum wages, if the usual wages are underbid repeatedly or in an abusive manner. Such minimum wage provisions would be enacted on the application of a newly created tripartite commission composed of representatives of the Government, employers, and employees.

A law on professional, trade, and business associations is also planned, which is intended to govern future cooperation between the associations and the State of Liechtenstein.

As part of a broad consultation procedure, the Government has invited interested associations and interest groups to comment on the planned measures.

Securing the social welfare State

Liechtenstein has a highly developed social welfare State. However, the costs for social services provided by the State have increased dramatically since the beginning of the 1990's. With the goal of obtaining a basis for deciding on how to secure the social welfare State for coming generations in a sustainable manner, the Government commissioned a study in 2004-2005 to examine the cost developments in the respective areas of social security in an economic and socio-political context. This study provided for the first time a detailed and comprehensive analysis of the complex structure of social benefits provided by the State. The analysis shows that the State contributions to social security increased from 78 million Swiss francs in 1995 to 189 million Swiss francs in 2004. This represents an increase of 111 million Swiss francs or 141 percent. (The annual rates of increase of the costs for social services provided by the State amounted to between 4 and 24 percent). State social benefits per capita amounted to over 5000 Swiss francs in 2004. One of the reasons for this increase in costs was the steady expansion of the social welfare State in Liechtenstein during the 1990's. The findings of this study show, however, that social expenditures have also risen in part because the social welfare State must bear a considerable share of the changes in the economy and in society.

The analysis of the Liechtenstein social welfare State made clear that reforms are necessary to guarantee the security of the social systems over the long term. All important actors in the social realm must now be included in a joint dialogue. By taking measures (of a socially acceptable kind) now, the functioning of the social systems can be secured in a sustainable manner.

The largest expenditures in the overall budget are the State contributions to health insurance, old age and survivors' insurance, disability insurance, and State support of hospitals. In some of these areas, the Government is already taking measures and implementing reforms. In January 2006, for instance, the Government issued a consultation report on amending the Disability Insurance Act and submitted it to the affected associations and institutions. The

proposal provides for socially acceptable measures that will specifically ease the financial burden on disability insurance. For example, persons in danger of disability will be identified at an early stage to enhance their chances of reintegration into the workplace.

International Humanitarian Cooperation

Solidarity with poor countries and with countries affected by disasters or armed conflict is a traditional focus of Liechtenstein foreign policy. In 2005, State funds in the amount of approximately 18 million Swiss francs were spent on International Humanitarian Cooperation (IHC). Liechtenstein IHC consists exclusively of non-repayable financial contributions, i.e., it does not contain any credits or loans. It encompasses projects relating to emergencies, reconstruction, refugee assistance, and development cooperation. According to OECD criteria, the Liechtenstein development contribution rate in 2001 amounted to 0.4 percent of gross domestic product (the average of OECD countries is 0.22 percent). In its current Government Program, the Government has formulated the goal of increasing the rate to 0.5 percent by 2009, in line with the UN World Summit of last September.

Development cooperation constitutes by far the largest share of IHC, the goal of which is to achieve sustainable economic, social, and cultural development to eliminate poverty. Thematic focus areas include health, education, rural development, the environment, social development, and good governance. The promotion and protection of vulnerable groups is a special priority.

The Government is currently engaged in drafting a new legislative proposal on international cooperation. The currently valid law from 1984 was drafted in a very general manner with respect to the principle, contents, goals, and implementation of International Humanitarian Cooperation. The new law is intended to provide a modern and transparent basis for the changed understanding of development cooperation and to specify clear priorities. This legislative proposal has also been circulated to interested parties in the National Administration, civil society, and the private sector, as part of a broad consultation procedure.

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I hope that these remarks have helped enrich our dialogue. We will be happy to elaborate on additional aspects as needed and answer any questions you may have to the best of our knowledge.