

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 29th Session

LIECHTENSTEIN

I. BACKGROUND INFORMATION

Liechtenstein has ratified the *1951 Convention relating to the Status of Refugees* in 1957 and acceded to its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) in 1968. Liechtenstein also acceded to both the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) and the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) in 2009.

With a population of 37,815 inhabitants, Liechtenstein is one of the smallest countries in Europe with a limited number of asylum-seekers (on average around 80 asylum applications per year). After a sharp increase of applications in 2015 (154 applications), the numbers were back to the regular average (83) in 2016. In 2016, 26 applications were declared inadmissible based on the *Dublin III Regulation*¹ and 31 were rejected on the merits. Some 19 asylum-seekers were granted refugee status and seven were provisionally admitted. The main countries of origin in 2016 were Serbia (16 applications), followed by Ukraine (12 applications). The refugee population is around 163 and the stateless population two.

The Liechtenstein Refugee Council has been commissioned by the Government to provide reception facilities to asylum-seekers and provisionally admitted persons.

Asylum applications are being conducted by the Office of Alien and Passport Affairs (Art. 5 of the *Asylum Act*²) and the national legal framework on asylum is composed of the *Asylum Act* and the *Foreign Nationals Act*.³ On 1 January 2017, amendments to the *Asylum Act* entered into force with the objective to establish a more efficient procedure and to introduce new inadmissibility grounds in order to filter out unfounded asylum claims. Free legal advice is provided to all asylum-seekers by a Government commissioned lawyer after receiving the first instance decision. According to the new *Asylum Act*, the decision on the admissibility is taken by the member of the Government responsible for home affairs, education and environment and the decision on the merits by all members of the Government.⁴

Recognised refugees are granted a residence permit and, in general, enjoy the rights they are entitled to under the *1951 Convention*.

¹ European Union: Council of the European Union, *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*, 29 June 2013, OJ L. 180/31-180/59; 29.6.2013, available at: <http://www.refworld.org/docid/51d298f04.html>.

² *Asylum Act* of 14 December 2011 (Status as of 1 January 2017), 152.31.

³ *Foreign Nationals Act* of 17 September 2008 (Status as of 1 January 2017), 152.20.

⁴ *Asylum Act* of 14 December 2011 (Status as of 1 January 2017), Art. 5.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 94.81: “Adapt its asylum system to the evolving international protection needs (Mexico)”.⁵

UNHCR welcomes Liechtenstein’s openness to discuss legislative proposals. For example, many of its recommendations⁶ were included in the revised *Asylum Act*. UNHCR is nonetheless concerned at some of the new inadmissibility grounds introduced by the amendments to the *Asylum Act* (see comments under Issue 2).

UNHCR further welcomes that Liechtenstein resettled 6 Syrian refugee families between 2014 and 2016. Moreover, under the EU relocation scheme, Liechtenstein decided to relocate from Greece and Italy 43 persons, of whom the first 10 arrived in January 2017.⁷

Finally, UNHCR notes with appreciation that Liechtenstein signed the *Council of Europe Convention on preventing and combating violence against women and domestic violence* (the *Istanbul Convention*) in November 2016.⁸ The *Istanbul Convention*, *inter alia*, recognizes gender-based violence against women as a form of persecution.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: “Provisional Admission”

Linked to 2nd cycle UPR recommendation no. 94.81: “Adapt its asylum system to the evolving international protection needs (Mexico)”.

UNHCR is concerned about the restrictive application of the *1951 Convention* refugee definition. Persons with a valid *sur place* claim are only granted a provisional admission status with limited recognized rights.⁹

Similarly, persons fleeing conflict and generalized violence are not recognized as refugees and they are also not granted a subsidiary protection status. Their asylum claims are rejected by the asylum authorities and they receive an expulsion order, which is then suspended because their expulsion is declared “unreasonable” due to the existing conflict and violence. As a result, they are granted a provisional admission status.

⁵ All recommendations made to Liechtenstein during its 2nd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review of Liechtenstein” (22 March 2013), A/HRC/23/14, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LISession15.aspx>.

⁶ See, among others, UNHCR Office for Switzerland and Liechtenstein, *UNHCR-Stellungnahme zum Vernehmlassungsbericht der Regierung des Fürstentums Liechtenstein betreffend die Abänderung des Asylgesetzes (AsylG) sowie des Gesetzes über die Ausländer (Ausländergesetz, AuG)*, March 2016, available at: http://www.unhcr.ch/fileadmin/rechtsinfos/fluechtlingsrecht/7_liechtenstein/7_4_unhcr_positionen/FR_CH_Positionen_2016-Stellungnahme_LIE_AsylG.pdf.

⁷ European Commission, *Relocation and Resettlement - State of Play*, 8 February 2017, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170208_factsheet_on_relocation_and_resettlement_en.pdf.

⁸ Regierung des Fürstentums Liechtenstein, *Liechtenstein unterzeichnet Europaratskonvention gegen Gewalt an Frauen*, 10 November 2016, available at: www.regierung.li/news1.aspx?id=117256&nid=7212.

⁹ *Asylum Act* of 14 December 2011 (Status as of 1 January 2017), Art. 35.

The “provisional admission” has to be renewed on an annual basis and rights fall short of the rights granted to recognized refugees in terms of family reunification, freedom of movement and social allowances.

This can mean significant hardship and may also negatively impact on their local integration. In practice, “provisional admission” operates as a permanent status, but without effective potential for integration although the individual’s international protection needs are generally equally compelling and of equal duration as refugees’.

Recommendations:

UNHCR recommends that the Government of Liechtenstein:

- a) Amend the *Asylum and Foreign Nationals Act* and relevant regulations thereto to ensure that refugees *sur place* are granted asylum and enjoy the status according to the *1951 Convention*;
- b) Ensure an inclusive application of the *1951 Convention* in line with current international standards, including with respect to persons fleeing persecution in the context of conflict and violence; and
- c) Introduce a subsidiary protection status, with rights equivalent to those of refugees, for individuals in need of international protection who fall outside the scope of the *1951 Convention*.

Issue 2: “Fair and efficient asylum procedures”

Linked to 2nd cycle UPR recommendation no. 94.81: “Adapt its asylum system to the evolving international protection needs (Mexico).”

Many asylum claims are deemed to be inadmissible based on the *Dublin III Regulation* and only few decisions are decided on the merits. Additional admissibility grounds to filter out unfounded claims were introduced by the amended to the *Asylum Act*. The asylum claim can, for example, be declared inadmissible if an asylum-seeker’s behaviour shows that he or she is not willing or able to integrate (Art. 20 para. 1 (g) of the *Asylum Act*). UNHCR is concerned that some of these new admissibility grounds will lead to exclusion from refugee status beyond the exclusion clauses of the *1951 Convention* (Art. 1F).¹⁰

In addition, restrictions in the legal aid system¹¹ and the limited cognition of the Administrative Court¹² (second instance authority) may lead to unjustified restrictions to the right to an effective remedy.

Recommendations:

UNHCR recommends that the Government of Liechtenstein:

- a) Ensure that exclusion from refugee status is limited in law and in practice to the reasons exhaustively laid down in the *1951 Convention*; and
- b) Ensure that asylum-seekers have full access to an effective remedy against the first instance decision on their asylum claim.

Issue 3: “Family Reunification and the right to family life”

Linked to 2nd cycle UPR recommendation no. 94.79: “Alleviate barriers pertaining to the process of applying for family reunifications (Slovakia).”

¹⁰ See supra note 8.

¹¹ See Art. 83 para. 1 (a) of the *Asylum Act*, according to which the Administrative Court decides on granting legal aid only with its decision on the substance.

¹² See Art. 78 *Asylum Act*, according to which discretionary decision are only eligible to a legal review. Furthermore, the provision entails restrictions regarding novation.

Family reunification for refugees is restricted to spouse and minor children (Art. 39 *Asylum Act*). Provisionally admitted persons can only apply for family reunification after a three-year waiting period, and only if they fulfil additional requirements, e.g. independence from social welfare benefits (Art. 23 of the *Regulation to the Asylum Act*). Asylum-seekers have no right to be reunified with their family.

Recommendations:

UNHCR recommends that the Government of Liechtenstein ensure effective access to family reunification for all persons in need of international protection by amending the *Asylum and Foreign Nationals Act* and its *Regulations* and removing administrative obstacles.

Additional protection challenges

Issue 4: “Integration and naturalization of refugees and stateless persons”

There is no facilitated naturalization for refugees and stateless persons as required by Article 34 of the *1951 Convention* and Article 32 of the *1954 Convention*. In Liechtenstein, the naturalization eligibility requirements for refugees are the same as for other foreigners. The same concerns arise with respect to adult stateless persons.

The *Citizenship Act*¹³ does contain provisions to reduce childhood statelessness, but the safeguards fall short of Liechtenstein’s obligations under the *1961 Convention*. Naturalization of persons born in Liechtenstein who would otherwise be stateless is, for example, conditional on lawful residence (Art. 5b (1)(b) and 4e of the *Citizenship Act*) and various requirements relating to the person’s financial situation and behaviour, including his or her criminal history (Art. 4b of the *Citizenship Act*).

Recommendations:

UNHCR recommends that the Government of Liechtenstein:

- a) Establish a facilitated naturalization process for refugees and stateless persons in accordance with the *1951* and the *1954 Conventions*; and
- b) Automatically grant nationality to children born in Liechtenstein who would otherwise be stateless in accordance with the principle of the best interests of the child.

**UNHCR
June 2017**

¹³ *Citizenship Act* of 4 January 1934 (Status as of 1 April 2016).

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

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We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regard to Liechtenstein.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ¹⁴	Recommending State(s)	Position ¹⁵
Refugees and asylum-seekers		
94.81. Adapt its asylum system to the evolving international protection needs	Mexico	Supported ¹⁶
94.82. Reduce the permissible length of administrative detention of asylum seekers, especially children	Brazil	Noted ¹⁷
94.79. Alleviate barriers pertaining to the process of applying for family reunifications	Slovakia	Noted ¹⁸
Trafficking in persons		
94.7. Ratify the Optional Protocol to the Convention on the Rights of the Child in order to better counter trafficking in children, child prostitution and child pornography	Libya	Supported

¹⁴ All recommendations made to Liechtenstein during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Liechtenstein" (22 March 2013), A/HRC/23/14, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LISession15.aspx>.

¹⁵ Liechtenstein's views and replies can be found in: *Addendum* (28 May 2013), A/HRC/23/14/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LISession15.aspx>.

¹⁶ **Addendum:** "Through its accession to the Dublin Convention, Liechtenstein is integrated into the European asylum system. Liechtenstein incorporates changes to this system. Liechtenstein's system is accordingly, in coordination with the other Dublin states, continuously adjusted to international developments."

¹⁷ **Addendum:** "Rejected. The Asylum Act and the Foreigners Act set out the maximum duration of administrative detention of asylum-seekers. For adults, it is six months. For minors between the ages of 15 and 18, it is three months. Younger persons may not be placed in administrative detention. In Liechtenstein's view, the maximum duration of administrative detention complies with international standards and is not disproportionately long. Liechtenstein is however aware of the special vulnerability of children (in light of the Convention on the Rights of the Child) and points out that in practice, placing minors in administrative detention is avoided to the extent possible. So far, it has never happened in practice that persons under the age of 18 were placed in administrative detention. Liechtenstein accordingly sees no urgent need for action in this regard."

¹⁸ **Addendum:** "Family reunification in Liechtenstein is tied to several conditions. Due to Liechtenstein's EEA membership, these are less restrictive for EEA/EFTA and Swiss citizens than for third-country citizens. The conditions for family reunification of third-country foreigners are, in Liechtenstein's view, proportionate and appropriate and in compliance with international obligations. Liechtenstein therefore sees no urgent need for action."

94.73. Enhance the efforts against trafficking in persons and strengthen programmes that provide assistance and aid to its victims	Libya	Supported ¹⁹
94.76. Adopt measures aimed at the identification of victims of human trafficking and provide them with the protection and rehabilitation	Belarus	Supported
94.77. Establish mechanisms for the identification of victims of trafficking as well as referral mechanisms and provide temporary residence permits, protection and support to all victims of trafficking	Republic of Moldova	Supported
Sexual and gender-based violence		
94.71. Continue to work on reducing violence against women in all spheres, keeping in mind the recommendations made on this subject in the context of its second UPR	Nicaragua	Supported
94.72. Scale up efforts in the fight against all types of gender-based violence and adopt continuous and permanent education and awareness-raising policies in this area	Spain	Supported
Discrimination, xenophobia and related intolerance		
94.34. Develop a comprehensive anti-discrimination legislation and adopt a comprehensive policy to ensure effective implementation of the principles of equality and non-discrimination in respect of all	Kyrgyzstan	Supported ²⁰
94.35. Continue to strengthen its programs to enhance tolerance and multiculturalism, with an aim to eliminate negative perceptions that could lead to discrimination or violence, particularly for women and children	Philippines	Supported
94.50. Continue its measures concerning the fight against the de-facto discrimination faced by certain disadvantaged groups of women, especially older women, women with disabilities and migrant women	Azerbaijan	Supported

¹⁹ **Addendum:** "Since 2006, Liechtenstein has had a coordination mechanism for combating human trafficking. This Round Table on Human Trafficking brings together the relevant authorities (prosecution authorities, migration authority, and victim assistance offices) and aims to secure and optimize their cooperation in the field of human trafficking. In 2007, the Government adopted a guideline for combating human trafficking. It defines the process and cooperation of competent authorities in cases of trafficking. It also ensures that victims of trafficking are given a recovery and reflection period of 30 days to consider further steps and any cooperation with prosecution authorities. For the duration of the enquiries and the criminal proceedings, the victims receive a time-limited residence permit. Housing, protection, support, medical and psychological care, and rehabilitation are also ensured. Cooperation with professional organizations is envisaged for return to the country of origin and reintegration. Liechtenstein will consider further measures to identify victims of trafficking, ensure their protection, and prevent trafficking."

²⁰ **Addendum:** "Partially accepted, and the accepted part is considered already implemented. While protection from discrimination on the basis of personal characteristics is not defined in comprehensive anti-discrimination legislation, such protection is provided on the basis of specific provisions in specialized legislation. [...] Liechtenstein rejects the recommendation in regard to comprehensive anti-discrimination legislation, however. The freedom of contract between private parties is of essential importance to Liechtenstein's liberal economic order [...]."

94.51. Enact specific legislation that prohibits and punishes racial discrimination	Mexico	Supported ²¹
94.55. Enact the relevant legislation to eradicate and ban xenophobia and racial discrimination in all spheres including education, employment and housing	Turkey	Noted ²²
94.64. Further examine methods to promote greater representation of members of minority groups in the government and parliament	United States of America	Supported
94.66. Continue its commendable efforts to promote understanding between nationals and foreign residents, as well as its efforts in the area of education in ethnic and religious tolerance	Morocco	Supported
94.68. Take further steps to prevent all forms of discrimination against persons belonging to other ethnic or religious origins including migrant workers and their children	Thailand	Supported
SOGI		
94.70. Take the necessary measures to raise awareness among the population against homophobia, and in general, in favour of the non-discrimination on the basis of sexual orientation, undertaking global public awareness campaigns	Spain	Supported ²³
Migrants		
94.65. Enforce the principle of equality before the law with regard to immigrants living in Liechtenstein on the same footing as to its citizens	Slovakia	Noted ²⁴
94.66. Continue its commendable efforts to promote understanding between nationals and foreign residents, as well as its efforts in the area of education in ethnic and religious tolerance	Morocco	Supported
94.68. Take further steps to prevent all forms of discrimination against persons belonging to other ethnic or religious origins including migrant workers and their children	Thailand	Supported

²¹ **Addendum:** “§ 283 of the Criminal Code expressly forbids and punishes racial discrimination.”

²² **Addendum:** “Thanks to the punishment of racial discrimination under the Criminal Code and the provisions in labour law, racial discrimination and xenophobia can already be combated in a large part of public life. Expanding these provisions to all spheres would mean a strong intervention in private law and the freedom of contract and would be disproportionate.”

²³ **Addendum:** “The vote on the Domestic Partnership Act for same-sex couples in June 2011 showed that the large majority of voters is sensitized to the problems and concerns of homosexual persons. 68.8% voted in favour of the law. Nevertheless, the Liechtenstein Government is aware that raising awareness on this subject is a long-term task.”

²⁴ **Addendum:** “While the Liechtenstein Constitution does not expressly guarantee equality of all persons before the law, the Constitutional Court has in a series of judgements recognized equality before the law also for foreigners. In Liechtenstein’s view, there is thus no need for action. Moreover, Liechtenstein makes great efforts in the field of integration of foreigners to eliminate any discrimination.”

94.69. Continue to study how it could further improve the integration of migrants in its society, with a view to providing them with equal access to all basic social services and just conditions of work	Philippines	Supported
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II. Treaty Bodies

Committee against Torture

Concluding Observations, (2 February 2016), [CAT/C/LIE/CO/4](#)

Treatment of persons deprived of their liberty

16. While taking note of the size and holding capacity of Vaduz National Prison, the Committee is concerned at the continued absence of a full-time nurse or other medical personnel in the prison. It is also concerned that corrections staff continue to distribute medicines to persons deprived of their liberty. In addition, the Committee is concerned at the shortage of space in the prison, which has a negative impact on the work and leisure activities of prisoners (arts. 2, 11-13 and 16).

17. The Committee reiterates its recommendation that the State party should review its policy of health services in Vaduz National Prison and consider the appointment of a nurse or other medical personnel in order to preserve medical confidentiality, convey requests of detainees to have a medical examination, control stocks and ensure that medicines are provided only by qualified medical staff, in line with international standards. All persons arriving in a penitentiary institution should be examined by an independent medical doctor within 24 hours of arrival. The State party should also find a solution to guarantee work and leisure activities of prisoners to facilitate their return to social life.

Violence against women

20. While taking note with appreciation of the recent amendments to the State party's criminal and sexual criminal law, as well as the decrease in the incidence of domestic violence, the Committee is concerned that no plan has yet been established in follow-up to the National Action Plan on Violence against Women that was adopted in 2006. It is also concerned that victims of sexual or other forms of gender-based violence may, in practice, be overlooked during the refugee status determination procedures (arts. 2, 3, 12-14 and 16).

21. The State party should take steps to adopt a new plan in follow-up to the National Action Plan on Violence against Women implemented in 2009. It should also ensure that a gender-sensitive approach is applied during the refugee status determination procedure that allows for the identification of victims of sexual or gender-based violence.

Trafficking in human beings

22. While noting that trafficking in human beings is a specific offence under the Liechtenstein Criminal Code and appreciating the efforts made by the State party to prevent and combat human trafficking, including the holding since 2006 of the Round Table on Human Rights chaired by the National Police, the Committee is concerned that the vulnerability of asylum-seeking women and girls and female migrants may be overlooked and that they may risk becoming victims of trafficking (arts. 2, 3, 12-14 and 16).

23. The State party should ensure a gender-sensitive asylum procedure that responds to the specific protection needs of women and girls who are or may become victims of

trafficking. It should provide training to police and immigration officers on identifying and dealing with victims of trafficking and gender-specific violence.

Training

26. The Committee is concerned at the absence of specific training of law enforcement personnel and other public officials involved in work with persons deprived of their liberty, asylum seekers and migrants on the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. It is also concerned at the lack of training of medical doctors and other medical personnel on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and at the absence of specific methodologies to evaluate the effectiveness and impact of the training provided (art. 10).

27. The State party should ensure that law enforcement personnel and other public officials involved in work with persons deprived of their liberty, asylum seekers and migrants receive training on the prohibition against torture and that the Istanbul Protocol is made an essential part of the training, in particular, for all medical professionals. The State party should develop and implement specific methodologies to assess the effectiveness and impact of such training.